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The Solicitors' Journal

(ESTABLISHED 1857.)

*** Notices to Subscribers and Contributors will be found on page ii.

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Current Topics.

Baron Sankey of Moreton.

IN ACCORDANCE with what is now the inveterate custom, the new Lord Chancellor, whom the profession has known for a number of years as Sir JOHN SANKEY, has been raised to the peerage as BARON SANKEY OF MORETON, in the County of Gloucester. This step was, of course, necessary to enable him to speak and vote in the House of Lords, although not essential to enable him to act as Speaker of the House of Lords. As is explained by the late Sir WILLIAM ANSON, the woolsack on which the Speaker sits is not technically within the limits of the House of Lords, so that the office may be discharged by a commoner, as for example, when a commoner has been Lord Keeper of the Great Seal, or when the Great Seal has been in commission, or until the Lord Chancellor has been raised to the peerage. In practice, nowadays, the Lord Chancellor, except perhaps for the few days after his appointment, as was the case with Sir JOHN SANKEY, is always a peer, for this among other reasons, that he is thus enabled to expound and defend the ministerial policy in the House of Lords. Lawyers naturally think of him as the head of the law, in which capacity he takes a leading part in the judicial work of the House of Lords and Judicial Committee of the Privy Council, but he may, and sometimes does, sit in the Court of Appeal. An extensive patronage in judicial appointments is vested in him, and he is assumed to cast a watchful eye on the whole system of the administration of justice. Moreover, as F. W. MAITLAND pointed out, he is a link between the judicial and the executive systems by virtue of his place in the Cabinet. It is thus a great, or, as MAITLAND said, a splendid, position that he holds, but it is one of incessant work and no little anxiety, demanding of its holders not merely intellectual, but likewise great physical powers. With these qualifications the present Lord Chancellor is happily endowed.

Street Betting, Lord Byng, and Ourselves.

SO LATELY as 25th May we wrote (*ante*, p. 324), "Street bookmakers in England, with the assistance of their clients, most of whom are sufficiently decent folk, play a costly game of hide and seek with the police, even if they do not bribe them . . . that the police and public should co-operate in the enforcement of law and order is far more important than the prevention of a few foolish and improvident bets, and for this reason THE SOLICITORS' JOURNAL again stresses the need of re-considering laws which in practice are found to be repugnant to the general good sense of the public." In the Police Report for 1928, Cmd. 3335, just issued, Lord BYNG writes (p. 8): "Street betting is a constant source of trouble Public opinion is out of sympathy with the law and the detection of offences is, in consequence, rendered extremely difficult." Perhaps we may venture on the comment that our own observations could hardly have been more authoritatively justified. It remains for Parliament, which alone can alter the law, to give early consideration to the matter, and the obvious difficulties of the task will not excuse any delay or shirking of it.

The House that Jack Built

A DISTRESSING method of bringing an Act of Parliament into force has been much developed of late years, by enacting an "appointed day" to be fixed by Order in Council. Sometimes a whole series of appointed days are contemplated, and the statute book as a guide to statute law becomes useless. A particularly horrid example is furnished by the Companies Act, 1929, a consolidating statute. It "shall come into operation on the first day on which, by virtue of orders made by His Majesty in Council under sub-s. (4) of s. 118 of the Companies Act, 1928, all the provisions of that Act will be in operation." Section 118 brings one section—92—into operation on the passing of that Act (3rd August, 1928). Others come into force "on the appointed day, and the appointed day shall be such day as His Majesty may by Order in Council appoint, and different days may be appointed for different purposes and for different provisions of the Act." One Order in Council has been made appointing 7th February, 1929, as the day upon which s. 53 shall come into force, and so much as of s. 118 (3) and the third schedule as repeals s. 45 of the Companies (Consolidation) Act, 1908. When the process so gently begun will be complete no man knows. The confusion is added to by a Companies Forms (No. 1) Order, 1929, which shall come into force when the Companies Act, 1929, comes into force, which, as we have seen, comes into force when the Act of 1928 comes into force (and thereon expires). This is the House that Jack built.

Evidence in Receiving.

THE LAW of evidence, strictly construed, is so much in favour of a person charged as the receiver of stolen property that it has had to be modified by statute, and, as is well known, possession of other property stolen within twelve months is deemed to be relevant to the question whether he knew the property to be stolen which forms the subject of the charge, and moreover evidence of conviction within five years of an offence involving fraud or dishonesty is admissible upon the same issue. In the United States the scales are being weighted against the receiver by shifting the onus of proof on to him. Thus Rhode Island makes possession of stolen property evidence of guilty knowledge, unless the defendant shows it to have been got in due course of trade for adequate consideration.

In New Jersey, the accused has to prove the property was given to him or purchased for fair value or from one whom he thought was a dealer. He can also escape by showing he reported the purchase to the police, a most useful provision. New York has long had a rule that the buyers of certain classes of goods must be deemed to have known they were stolen unless the buyers have made "diligent enquiry" that the person of whom they bought had a legal right to sell. Under a new Act, dealers or collectors of any merchandise or property found in possession of stolen goods, are presumed to know they were stolen unless they can show they made "reasonable enquiry" before purchase. Of course the presence or absence of enquiry is always an element in English cases, but this definite shift of the burden of proof must be a powerful check on the receipt of stolen goods, though any reversal of the presumption of innocence offends against a sound and sacred principle of Anglo-American criminal jurisprudence.

The Air Accident.

THE OFFICIAL inquiry into the recent disaster to a cross-channel air liner off Dungeness was opened by Sir ARTHUR COLEFAX sitting with two Assessors at the Law Courts on Tuesday last. Provision for such inquiry is made by s. 12 of the Air Navigation Act, 1920, and the regulations made under it by the Minister of Air, those now in force having been made in 1922. Similar inquiries are directed by the Regulation of Railways Act, 1871, s. 6, and the Coal Mines Act, 1911, s. 83, in the case of accidents on railways and in mines respectively, and the court conducting all such inquiries has power to summon witnesses under penalty, and to take evidence on oath. In the case of an air accident, r. 7 of 1922 provides that the Air Minister shall appoint a competent person to hold the formal investigation (if one is found necessary or desirable after the preliminary inquiry directed by rr. 4 to 6) and may appoint "one or more persons possessing legal, nautical, engineering, or other special knowledge" to act as assessors. The court has to make a report to the Minister, stating its findings as to the causes of the accident and the circumstances thereof "and adding any observations and recommendations which the court thinks fit to make with a view to the preservation of life and the avoidance of similar accidents in future, including a recommendation for the cancellation, suspension, or endorsement of any licence or certificate." It is the duty of this JOURNAL to point out such defects in the law as its daily working may reveal; it is the greater pleasure, therefore, to show how adequately and carefully it guards our safety—and "safety first," though it may not be a good political slogan, is, after all, the reason why laws are made. Whether the civil liabilities arising under the Act, or from the common law in respect of flight, will be tested by this accident remains to be seen. Section 9 of the Act applies only to damages in respect of trespass or nuisance, so may not be relevant when an airplane is forced to come down at sea. Section 11 assimilates the provisions of the Merchant Shipping Acts as to wreck and salvage. Presumably companies and firms carrying passengers by air for reward resemble railway companies and passenger steamship owners in that they are not insurers of safety, but are *primâ facie* liable for their servants' negligence.

Noisy Motor Cars.

HITHERTO, THE only interference with the many *intolerable* noises made by motor cars and motor cycles has been where the noise is due to exhaust gases not properly dealt with by means of an effective silencing arrangement; and, even so, many cars and most cycles are unduly noisy though not made the subject of proceedings. The new Regulations which will come into force on 1st August deal with all kinds of noises made by motor cars, including those made by a badly-packed load. If the Regulations are energetically enforced the effect may be to mitigate some of the nerve-racking sounds that make day and night, in some districts, almost unbearable. Paragraph 3 of the Regulations is particularly sensible: "When a motor car is stationary on any highway no person shall use or permit to be used in connection therewith any instrument provided for the purpose of giving audible warning, except when such use is necessary on grounds of safety." This, it may be hoped, will put a stop to the activity of those road idiots who seem to think that the best thing to do in a traffic block is to hoot continuously. Whether they think it funny, or whether they imagine it will rattle the policeman on duty and cause him to release their line of traffic hastily, we do not pretend to know. In future it will not be worth their while, if police and magistrates do all they can to discourage the practice. Occasionally, as when the man in front begins to reverse without looking round, a sharp hoot may be necessary in the interests of safety. This the Regulations still permit.

Ostracism or Reinstatement.

MR. JUSTICE MCCARDIE spoke a true word when he said, at a meeting of the Central Discharged Prisoners' Aid Society last week, that the law was never so merciless as society itself. For many of the difficulties he encounters in his task of re-establishing himself the released prisoner has to thank society rather than the law. So long as employers, fellow workmen, friends and neighbours offer the cold shoulder to a man because he has been in prison, the punishment of imprisonment will continue long after a man's release. It is, of course, a risk to employ, or to befriend, an ex-convict. But many employers can and do offer positions not involving trust to men who have been convicted of dishonesty; later on they may even be restored to positions of responsibility. The learned judge said that he felt that there might be two great tragedies in a man's life; first, when the prison gates clashed behind him when he went in to serve his sentence; and, secondly, when they clashed behind him when he came out after serving his sentence. Then he stood at the gates without friends, money and character. Societies may do a great deal, we all know; but unless society backs them up with practical help as well as subscriptions, they are grievously handicapped. Ostracism is the most discouraging and embittering experience the discharged prisoner ever suffers; and as long as we are so foolish and illogical as to attach stigma to the imprisonment that is suffered to expiate the offence rather than to the offence itself (provided that it results in no more harm than a binding over!) so long will the uphill path of the ex-prisoner be almost impassable.

The Marketability of Subsidy Houses.

THE NEED for full disclosure of subsidy restrictions was shown in the recent case of *Bendall* v. *Pountney*, at Birmingham County Court, in which the plaintiff claimed the return of £20 paid as a deposit on an agreement for the sale of a house. The plaintiff had paid the deposit on the faith of a representation that the property was not a subsidy house, the materiality being that a subsidy house (*a*) cannot be sold for more than a fixed sum for five years, (*b*) cannot be converted into a shop, (*c*) is not readily accepted as security by building societies. The defendant's receipt specified certain agreed terms, but did not incorporate the above warranty, although the formal contract submitted by his solicitors disclosed the existence of subsidy restrictions. The draft was therefore returned unsigned, and the contract was rescinded, but the defendant declined to return the deposit on the grounds that (*a*) the only warranty given was that the property was not a municipal house, (*b*) the agreed stipulations were set out in his receipt, which was silent on the matter since alleged to be an essential term of the contract. His Honour Judge DYER, K.C., observed that, although the defendant contended that only municipal houses had been discussed, his solicitors had admitted on the correspondence that "Government" houses had been mentioned, and judgment was accordingly given for the plaintiff. It is to be noted that, even if the plaintiff had failed to prove the above breach of warranty, the deposit

would still have been returnable under *Chillingworth* v. *Esche* [1924] 1 Ch. 97. The Court of Appeal there decided that a written receipt for a deposit, subject to a proper contract being prepared by the vendor's solicitors, was only conditional and did not constitute a firm contract. On a subsequent failure of negotiations the purchasers were therefore entitled to recover the deposit, even in the absence of default by the vendor.

The Church Assembly and Marriage.

SEVERAL SUBJECTS of interest to the legal profession were debated in the Church Assembly last week. The Marriage Measure which was before the Assembly at its spring session came up for revision and was approved in detail, subject to the concurrence of Convocation. The Measure is intended to enable a marriage to be solemnised in any church which is *the usual place of worship* of the parties concerned or either of them. This is in contradistinction to the existing law, which requires a *residential* qualification. For purposes of the Measure, the name of any person claiming that a particular parish church is his or her "usual place of worship" must appear on the electoral roll of such parish church. As these electoral rolls are revised only once a year, that would appear to provide a sufficient substitute for the old residential qualification. Many persons attend churches not situated in the parishes where they reside, but the law provides that each church elector may choose for himself whether his name should appear upon the electoral roll of the church of the parish in which he lives, or on that of the church at which he is an habitual worshipper. As Prebendary RANDOLPH—one of the sponsors for the Measure—pointed out, if the Measure passed, young people could be married in the church in which they worshipped and in which they were known; this would also be advantageous as providing additional security against clandestine marriages.

The Sale of Parsonage Houses.

ANOTHER SUBJECT of interest to lawyers was debated when the Parsonages Measure came before the Assembly for "general approval." The purpose of this Measure is to amend and consolidate the law relating to the sale, purchase and improvement of parsonage houses. It is a matter of general knowledge that many of the country clergy are saddled with the upkeep of rectories and vicarages quite out of proportion to their family requirements—many of them dating back to the halcyon days of the "sporting" parson who kept his stud of hunters. The shrinkage of revenue has made it impossible for these elaborate establishments to be maintained, and the main practical object of this Measure is to facilitate the disposal of such places and the purchase or erection of parsonage houses more in keeping with what the country clergyman really needs. The Measure secured unanimous "general approval," and it was referred for revision (i.e., the "Committee" stage) to the autumn session of the Assembly. Such criticism as was evoked during the debate had reference chiefly to the possibility of effective control passing out of the hands both of the patron and of the Parochial Church Council into the hands of Queen Anne's Bounty and the Ecclesiastical Commissioners, who were stoutly defended by Sir LEWIS DIBDIN against a charge of being "bureaucrats."

French Rent Restriction.

ARTICLE 10 of a new rent restriction measure now before the French Deputies lays down, according to *Le Journal*, how the present rents are to be calculated from the rent paid in 1914, taking into account the "co-efficient of augmentation" fixed by Article 11. In other words, rent restriction in France is no less involved than in this country. Indeed, it is much more so, as anyone who knows the Frenchman's love of the complex might expect. One amendment of the new Bill is proposed to prevent a landlord obtaining possession from a tenant who served in the war. Soldiers with more than 10 per cent. disability are already protected in this way. One critic of the amendment gave some striking illustrations to show how it would work in particular cases. A war widow with several children or the father of a large family would not be able to obtain possession from a bachelor who served in the war. This proved a particularly telling argument, for, with the falling birth rate, the parents of big families and bachelors are regarded by the French very much in the same way as they regarded combatants and non-combatants in the war. The amendment was eventually carried with some modifications in favour of war widows, workmen injured in the course of their employment, fathers of large families and landlords over sixty whose means do not exceed a certain sum. What permutations and combinations these provisions will give rise to and what problems they will set the courts can be easily imagined. A last amendment proposed to set up commissions of arbitration composed of an equal number of landlords and tenants which would investigate each case. The deputies rejected it by an overwhelming majority, but it is doubtful if the judges faced with the task of interpreting the new provisions would have been so unsympathetic.

Separation Deeds.

A JUDGMENT of some importance with regard to the drawing up of separation agreements was given in *Berry* v. *Berry*, 45 T.L.R. 521. In that case an agreement of separation was first drawn up under seal, and afterwards varied by a written agreement not under seal. The wife brought an action to enforce the first agreement and the husband pleaded that it had been varied by the second agreement; and the question to be decided by the court was whether the second agreement not being itself under seal could operate to vary the first. The court (SWIFT and ACTON, JJ.) held that it could. At common law it was clear that variation of a deed could only be made by deed, *West* v. *Blakeway*, 10 L.J. C.P. 173, but equity had stepped in to protect individuals from any hardship that might be caused by the operation of the common law rule by preventing anyone who had agreed to variation or rescission from suing on the original deed, *Nash* v. *Armstrong*, 10 C.B. (N.S.) 259, and since by the Judicature Acts rules of equity prevail over rules of common law where both conflict, the husband was entitled to rely on the subsequent written agreement.

Land Sharks.

THE DOCK labourer who was bound over for a year at the Mansion House Justice Room on the 7th inst. on a charge of having broken and entered the chart-room and captain's cabin of a steamship lying off Brewer's Quay was guilty of an offence which, to those familiar with ship life and routine, is perhaps surprisingly rare. Only too often when a vessel arrives in port the doors of the chart-room are left unlocked and its contents placed within easy reach of a moderately cunning thief. Comparatively little ingenuity is required to invent one of many excuses which would secure permission to board a vessel when the day's work is over, and at that hour the one officer on board "keeping ship" might not once have occasion to visit the chart-room, and so leaves the way clear for the marauder. In the present case only a pair of binoculars and a telescope were stolen, so that the really valuable instruments were fortunately untouched. A more intellectual aspirant, however, might have designs on the ship's chronometers or the officers' sextants or other navigation instruments whose value is not inconsiderable, and even if not appropriated they might be badly damaged, and their delicate precision seriously impaired so that some difficulty would be experienced in rectifying errors. It is generally known that sailors are trusting individuals, but trust should be tempered with discretion and a knowledge that land sharks exist. A padlock on a sea-chest in the forecastle of a sailing ship in former days was often enough to call forth the vengeance of the other members of the crew; the innuendo was resented.

Criminal Law and Police Court Practice.

False Pretences.—A recent case in which a person convicted of obtaining money by false pretences had obtained a situation by falsely representing that he possessed a certain essential qualification which in fact he did not possess seems to have been decided without any submission on the part of the defence that the false pretence was too remote from the obtaining of the money—a submission which might have been made with some chance of success if the facts were exactly as reported. The money said to have been obtained by false pretences was simply the salary attaching to the position obtained by false statement. It was admitted that the defendant had for a considerable period performed his duties to the entire satisfaction of his employer.

Putting the matter in the way most favourable to the defence, it could have been argued that what the defendant obtained by false pretences was a situation, and that he obtained his salary for work satisfactorily performed, so that what induced his employer to part with the money was not the false statement made long ago, but the duties just performed. The other way of looking at it, doubtless adopted in this case, was that whenever the prosecutor parted with his money he believed he was paying a qualified assistant, and that that belief operated all the time upon his mind until he discovered the misrepresentation. Had he known that the defendant was unqualified, he would not have paid the salary, however well the work might have been done.

In *R.* v. *Gardner* (1856), 25 L.J. 100 ; 7 Cox C.C. 136 ; 2 Jur. (N.S.) 598, the prisoner falsely pretended he was a naval officer, and thereby induced the prosecutor to enter into a contract to lodge and board him at so much a week. This was held not to be obtaining goods by false pretences, the supply of the articles of food being considered to be too remotely the result of the false pretence. This, of course, was before the passing of the Debtors Act, 1869, under which nowadays such a case would be punishable as obtaining credit by false pretences.

The case referred to in this note, however, did not involve obtaining credit, and it looks as if the transaction either amounted to obtaining money by false pretences or was no criminal offence at all.

"Damn!"—A number of north country newspapers paid us the compliment last week of referring to our explanation of the law relating to cursing and swearing, though we do not for one moment wish it to be thought that this is one of our pet subjects. The matter has arisen over the prosecution of a man at Glasgow (where no doubt they are more sensitive than we are south of the Tweed) for advertising a kinema as being "not so damn far away."

Expert opinion having been sought, naturally enough, at Billingsgate, a fish porter replied that none of his mates would call "damn" a swear word.

Is it? A man who damns another is certainly cursing him, but we doubt if he is profane unless he couples the word with irreverent expressions. If he says "By damn?" (as in John Masefield's poem), he really means "By dame!" or "By Our Lady!" which is profane swearing. This may render him liable to the penalties prescribed by the Profane Oaths Act, 1745, a statute, by the way, which is usually considered, owing to its wording, to be inapplicable to women.

Many people fail to distinguish between cursing, swearing and obscene language, which are three different kinds of folly. Most of it is quite senseless, and the depths of it are illustrated by the men whose vocabulary is so poor that their oaths, by their frequency, lose all emphasis, being even intruded between the syllables of a word. We have heard a man say he would show his "inde——pendence." Such a man who is in need of words for real emphasis probably finds himself speechless.

None of the accounts of the Glasgow case, so far as we have seen, tell us under what statute or bye-law the conviction took place, so we are left guessing as to the legal aspects of the matter.

Sir Harry G. Pritchard, Kt.

We have great pleasure in including in this Number a portrait of Sir Harry Goring Pritchard, solicitor, the eminent Secretary of the Association of Municipal Corporations. Sir Harry Pritchard, upon whom the honour of Knighthood was recently conferred by His Majesty (as announced in our issue of the 16th March last), is the senior partner in the well-known firm of Solicitors and Parliamentary Agents of Sharpe, Pritchard & Co. He was articled to the late Mr. Thomas Pallister Young, of the firm of Young & Sons, 29, Mark-lane, E.C., in 1886, but two years later his articles were transferred to his father, the late Mr. A. Goring Pritchard, for many years the senior partner in the firm, then known as Sharpe, Parker, Pritchard & Sharpe. He passed his final examination early in 1891, being placed first in first-class Honours and awarded the Clement's Inn and Daniel Reardon Prizes. He was admitted soon after, and joined the firm in September of the same year. He was appointed Secretary of the Association of Municipal Corporations in 1910 and in that capacity has worked assiduously in the interests of local government generally. In 1917 he was appointed a member of the Departmental Committee set up to consider and report upon the steps to be taken to secure co-ordination of public assistance (commonly called the "Maclean Committee"), the report of which was presented in December of that year. He is an active member of The Law Society, and in 1921 was elected a member of the Council, and is also a member of the Parliamentary, Professional Purposes, and Examinations Committees, the meetings of which he attends regularly, taking a keen interest in the work. In 1923 he was appointed a member of the Royal Commission on Local Government, who issued their first Report in 1925, to which legislative effect was given by the Local Government (County Boroughs and Adjustments) Act, 1926, and their second Report in October last, to which effect was in a large measure given by the Local Government Act, 1929. The third and probably their final Report is now under consideration.

To-day his time is almost entirely occupied with parliamentary work, both in connexion with private Bills on behalf of a number of clients, and public Bills largely on behalf of the Association of Municipal Corporations, and it is not difficult to imagine the enormous amount of work he must have put in upon that complicated measure the Local Government Act of this year. He has an excellent memory, and has often been known to go right through an important conference on the most complicated of municipal problems, scarcely making a single note, but producing a report remarkable for its accuracy and clarity. He is a prodigious worker, whilst his knowledge of local government law is profound, and the Association of Municipal Corporations are certainly fortunate in having at their disposal the services of so thoroughly capable a Secretary.

Sir Harry Pritchard married in 1899 Miss Amy Louisa Harriet Bayly and has three daughters and two sons.

W. P. H.

THE SOLICITORS' LAW STATIONERY SOCIETY, LIMITED.

Issue of Shares.

The recent issue of 15,000 ordinary £1 shares in The Solicitors' Law Stationery Society, Limited, we are informed, has been considerably over-subscribed. While the list closes on the 29th inst., we understand that applications received by first post on Monday, the 1st July, will be considered.

The Companies Act, 1929.

By ARTHUR STIEBEL, M.A., Barrister-at-Law (Registrar, Companies—Winding Up—Department, and Author of "Stiebel's Company Law and Precedents").

THE Companies Act, 1929, will come into force in a few months, probably in November. It will, with the case law on the subject, be a complete code for all companies formed and registered in England or Scotland under the Act or under certain earlier Acts, of which the Companies Act, 1862, and the Companies (Consolidation) Act, 1908, are the most important. In these articles I shall follow the Act in using, except where otherwise stated, the expression "Company" as meaning a company formed and registered under these Acts. Such companies comprise the vast majority of companies carrying on business in Great Britain, but the Act has many provisions which deal with companies registered but not formed under these Acts, with companies incorporated by Act of Parliament or Royal Charter, with Irish and foreign companies, and indeed with almost every conceivable form of company, partnership and association.

In one sense the Act is a great deal more than a mere consolidation Act, for it incorporates all the changes effected by the Companies Act, 1928, and only two of these have as yet come into operation. Moreover, there has been a drastic re-arrangement of the provisions consolidated. I propose to draw special attention to these changes and to follow the new arrangement.

The powers of a company are limited by its memorandum of association—but subject to this limit a company has the same powers of entering into contracts and committing torts as an individual has. A member of a company cannot, in the absence of very special circumstances, be required to pay the company's debts, but the company or its liquidator may be entitled to call on him to find money for the payment of such debts.

I.

INCORPORATION OF COMPANIES AND MATTERS INCIDENTAL THERETO. (Part I of the Act.)

Memorandum of Association.—Companies are divided into three classes. There is the unlimited company. In such case the company can call on every member to his last farthing, if need be, for the purpose of satisfying the company's liabilities. The second class consists of companies limited by shares. Here each member has, when called on so to do, to pay the amount unpaid on his shares, and no more, for the purpose of satisfying such liabilities. Thus, if I take 100 £1 shares and nothing has been paid on them, I am liable to the extent of £100. If I take 100 £1 shares with 10s. paid up on each share, I am liable to the extent of £50. The third class is companies limited by guarantee. Here the liability arises only on winding-up and is limited by the amount of the guarantee given by each member, but such companies may also have a share capital, and in such cases members who take shares will also be liable to the extent of the amount unpaid on their shares.

To form a company under the Act, any seven, or where the company to be formed is a private company, any two or more persons, must subscribe their names to a document called the memorandum of association and must register it with the Registrar of Companies. A memorandum must state (*a*) the name of the company, with "Limited" as the last word of such name in the case of a company limited by shares or by guarantee; (*b*) whether the registered office of the company is to be situate in England or Scotland; (*c*) the objects of the company. In the case of a limited company the memorandum must also state that the liability of its members is limited.

The memorandum of a limited company having a share capital must state the amount of share capital with which the company proposes to be registered and the division thereof into shares of a fixed amount. In the case of a company having a share capital no subscriber of the memorandum may take less than one share and each subscriber must write opposite to his name the number of shares he takes. In a company limited by guarantee the memorandum must also state the amount of the guarantee. A company may not alter the conditions contained in its memorandum except in the cases, in the mode and to the extent for which express provision is made in the Act. This applies not merely to the matters which the Act requires to be stated in the memorandum, but also to any other matters therein stated, such as the rights given to different classes of shares. In the case of matters which the Act does not require to be stated in the memorandum, a power of alteration may be reserved in the memorandum itself or in the original articles.

A company may not do anything which is not expressly or impliedly authorised by its memorandum. If a company does any act which exceeds these limits, such act will simply not be the act of the company, it will be *ultra vires*, and any individual member can obtain an injunction restraining the company from so acting. Such an act cannot be ratified, even if all the members consent.

The present-day practice is to insert very wide provisions in a memorandum. This renders this rule less important, as effect will be given to such provisions. The Act allows the provisions of the memorandum with respect to the objects of a company to be altered by special resolution with the sanction of the court. There are limits to this power of alteration. These limits have always been very wide, but they are to be extended, as in future an alteration can be made for the purpose of enabling a company to sell or dispose of the whole or any part of its undertaking or to amalgamate with any other company or body of persons.

Articles of Association.—There may, in the case of a company limited by shares, and there must, in the case of every other company, be registered with the memorandum, articles of association.

An unlimited company which has a share capital must state the amount of its share capital in its articles. The articles of an unlimited company, and of a company limited by guarantee, must, if the company has not a share capital, state the number of members with which the company proposes to be registered. In the case of a company limited by shares, if no articles are registered, the form of articles called "Table A" in the First Schedule to the Act will apply to the company. Articles regulate the domestic affairs of the company. There are a number of powers in the Act, such as the powers of altering the share capital of a company, which are only given if authorised by the articles. The articles also usually deal with such matters as the issue of shares and share certificates, the rights conferred by different classes of shares and the mode of varying such rights, the lien or charge usually given to a company on its shares, calls on shares, and the forfeiture, transfer and transmission of shares, the calling, holding and conducting of general meetings of the company, votes and proxies, directors, their appointment, qualification, powers, tenure of office, remuneration and proceedings, the use of the company's seal, dividends, reserve funds, accounts, audit, notices, and the rights of members on a winding-up. Articles may be altered by special resolution. This power is very wide, but it is subject to the limit that it must be exercised for the benefit of the company, but as the members of a company are the best judges of this, an alteration will hold good unless no reasonable man could think that it was for the benefit of the company. If anything is done contrary to the articles, the court will not interfere at the suit of a member unless such member is being deprived of an individual right of property (e.g., a dividend due to him), or unless the thing done is only authorised to be done by a special resolution.

Registration.—The memorandum and the articles, if any, are taken to the Registrar of Companies for England or Scotland for registration, and when he has registered them the company becomes incorporated under the Act, and is

capable of exercising all the functions of an incorporated company with perpetual succession and a common seal, but with such liability on the part of its members to contribute to the assets in the event of its being wound up as is mentioned in the Act. Thenceforth the company can hold lands, and, as regards lands in any part of the United Kingdom, without licence in mortmain. There is, however, a limit to the holding of land in the case of what are called "licence" companies. The Registrar gives a certificate of incorporation, and such certificate is conclusive evidence that the company has been duly registered, except where a trade union has accidentally been incorporated.

Provisions with respect to names of Companies.—No company may be registered by a name which (1) is identical with that by which a company in existence is already registered or which so nearly resembles that name as to be calculated to deceive, except where the existing company is being dissolved and signifies its consent; or (2) contains the words "Chamber of Commerce," except in the case of a company to be registered as a "licence" company; or (3) contains the words "Building Society." Further, a company may not, without the consent of the Board of Trade, be registered by a name which (1) contains the words (i) "Royal" or "Imperial," or which in the opinion of the Registrar suggests connexion with or the patronage of any member of the Royal Family or connexion with the Government or any department thereof; or (2) contains the words "Municipal" or "Chartered," or which in the opinion of the Registrar suggests connection with any municipality or local authority or with any society or body incorporated by Royal Charter; (3) contains the word "Co-operative." Most of these provisions with regard to the name are new.

The Board of Trade can allow an association to register without the word "Limited" as part of its name, if such association is to be formed for promoting commerce, art, charity, or any other useful object and prohibits the payment of dividends to its members. Such companies are the "licence" companies I have referred to, they are excused from making a return of members, but in future they will have to make the usual returns of directors. The licence may at any time be revoked. If such licence is revoked, the company will have to use the word "Limited" as part of its name, and in the case of a company which has the words "Chamber of Commerce" as part of its name, the name will have to be changed to one which does not contain these words.

A company may, by special resolution and with the approval of the Board of Trade, change its name.

General Provisions with respect to Memorandum and Articles.—The memorandum and articles will, when registered, bind the company and its members to the same extent as if they respectively had been signed and sealed by each member and contained covenants on the part of each member to observe all the provisions of the memorandum and articles. All money payable by any member to the company under the memorandum and articles will be a debt due from him to the company. This does not mean that these documents constitute an enforceable contract between the company and its members, but rather that they form a contract between the individual members of the company to carry on its business in a particular way.

Notwithstanding anything in the memorandum or articles of a company, no member of the company will in future be bound by an alteration made in the memorandum or articles after the date on which he became a member, so far as the alteration requires him to take or subscribe for more shares than the number held by him at the date on which the alteration was made, or in any way increases his liability as at that date to contribute to the share capital of or otherwise pay money to, the company. But a member may agree in writing, either before or after any such alteration is made, to be bound thereby.

(*To be continued.*)

Recent Local Government Legislation.

(By R. C. MAXWELL, O.B.E., B.A., LL.D., Barrister-at-Law.)

The output of local government legislation in the period 1925 to the present time, corresponding with the life of the last Parliament, has been phenomenal, and the results may be described as almost revolutionary. Taking into account both consolidating and amending legislation, we had in 1925 the Housing Act and the Town Planning Act, which consolidated the enactments relating respectively to those subjects. In the same year there was passed an important Local Government Act which comprised a series of eighty-seven clauses, mostly permissive or adoptive, conferring on local authorities various useful additional powers. These clauses were based on provisions gathered from recent local Acts; they relate, *inter alia*, to streets, bridges and buildings, drains and drainage, verminous premises, infectious diseases and hospitals. Two sections of this Act may be particularly referred as, inasmuch as they have been, and are likely still further to be, widely acted on, namely, ss. 68 and 69. The former empowers local authorities to provide suitable parking places for vehicles, or vehicles of any particular class, and to make charges for the use of any such parking place. It also empowers the local authority by order to authorise the use as a parking place of any part of a street within their district, not being a street within the London Traffic Area. This power, however, is conferred in carefully guarded terms; moreover, the local authority may not make a charge for the use of any part of a street for parking purposes. The next following section, 69, empowers the local authority—whether the council of a county, borough, urban or rural district, or a parish—to acquire and lay out and equip and maintain lands for the purpose of cricket, football, or other games or recreations. They may either manage such lands themselves and charge for the use thereof, or they may let them to any club or person for the purposes for which the lands were acquired.

The Roads Improvement Act of 1925 contained provisions which considerably extended the powers of highway authorities. It authorised them to plant trees and lay out grass margins in highways, and empowered the Minister of Transport to contribute to the cost of such improvements. With the object of preventing the obstruction to the view of persons using the highway, power was given to impose restrictions with respect to any corner or bend in such highways; and further, a general power was given to these authorities to prescribe a frontage line for building in relation to any highway maintainable by them.

Still dealing with the legislation of 1925, the Rating and Valuation Act of that year transformed and modernised the whole administrative machinery of rating and valuation; the substantive law relating to assessment, however, was left practically untouched. The change over from the old system of parochial rating, and the transfer of the functions of the overseers to the new rating authorities—the borough, urban district, or rural district, council, as the case might be—has proved to be a very costly business, and though the broad result of the Act must ultimately be to distribute the burden of rates much more equitably as between one area and another, and also, to some extent, as between one ratepayer and another in the same area, the more immediate effect has been to cause somewhat widespread discontent—a factor which had a bearing on the recent election. The benefits to be derived from this measure will probably not be apparent to the ordinary urban ratepayer for another decade, inasmuch as he must now contribute to the upkeep of all the roads in rural areas, in addition to paying the full cost of the maintenance of his own "unclassified" roads and streets.

Just when local authorities were busy tackling the many troublesome problems arising out of the Rating and Valuation Act, the Rating and Valuation (Apportionment) Act of 1928

passed into law. This Act was designed to prepare the way for the introduction and application of the "de-rating" provisions of the Local Government Act of 1929. To that end it required the rating authorities to prepare, and assessment committees to approve, "Draft Special Lists" showing in each case the necessary particulars relating to the classes of hereditament proposed to be "de-rated," namely, agricultural land and buildings, which were to be wholly "de-rated," and industrial and freight-transport hereditaments, which were to be "de-rated" to the extent of three-fourths of their net annual value.

Perhaps the most useful consolidating measure of recent years is the Poor Law Act of 1927. That Act repealed and re-enacted with some necessary drafting amendments practically all poor law enactments dating from the end of QUEEN ELIZABETH'S reign. The need for such a measure had been pressed on the attention of the department concerned for many years, and boards of guardians and their clerks, rejoicing in the accomplishment of their desires by the passing of the new measure, had begun to comfort themselves with the reflection that threatened guardians, like other threatened mortals, would live long, when, like a "bolt from the blue," came the announcement of impending legislation to abolish these bodies. We proceed to deal generally with this and the other important changes effected by the Local Government Act of 1929.

Part I of the Act transfers the administration of the poor law to the councils of counties, and of county boroughs, as from the 1st of April next. On that date boards of guardians cease to exist. The substantive part of the poor law, as distinct from its administrative machinery, remains unchanged, in theory at all events; but in practice the transfer of functions will doubtless materially affect the substantive part of the law and its operation. For purposes of settlement the county or the county borough replaces the parish, and for purposes of irremovability, the union. Thus the Metropolis—to take one striking instance—becomes an area as between the different parts of which no question of settlement or irremovability can arise. Hence, looking at the country as a whole, litigation on these highly technical matters is likely to be reduced almost to a vanishing quantity.

By Pt. II of the Act the functions of boards of guardians under the Acts relating to the registration of births, deaths and marriages are likewise transferred to the county and county borough councils; and provision is made for the increase of the inadequate fees hitherto paid to registrars under the Registration Acts.

Part III of the Act provides for the transfer to the county councils, as from the 1st of April next, of all roads in non-county boroughs and urban districts which are classified by the Minister of Transport, under his statutory powers, as class I or class II roads, "or in any class declared by him to be not inferior to those classes for the purposes" of the Act; it also provides for the transfer to the same authorities of *all* roads in rural districts, together with the highway powers of rural district councils. These changes in reference to highway administration are the direct consequence of the enormous development of motor transport, and the increasing liability of rural areas to properly maintain and meet the cost of maintaining roads in their areas, the wear and tear on which in many cases is largely the result of their use for through motor traffic. Rating for highway purposes should in future be uniform throughout each county area; and the rural ratepayer will be relieved further to the extent to which under the Act of 1929 the cost of "county roads," including under that category all the roads of the rural districts, will now be spread over an area which will include the non-county boroughs and urban districts of the county.

As a necessary sequel to their extended highway powers, county councils are empowered, by s. 40 of the Act, to act jointly with other local authorities in the preparation or adoption of a town-planning scheme. Town planning, in the earlier stages of a scheme, must be based mainly on the allocation of roads, prospective as well as existing, and the county councils, in conjunction with the Minister of Transport, are principally the authorities for planning and for defraying the cost of future roads. Already we see a report that the council of one of the home counties has approved a plan for the construction of fifty-eight new roads—that is, "main roads"; but lest that patient, burdened creature, the ratepayer, should be unduly alarmed, it is explained by the chairman of the council that the purpose is to enable the local authorities to get on with their town planning schemes and to guarantee them against any loss or expenses in connexion with the "earmarking" of the necessary sites, and that in most cases work on the proposed roads, or even the purchase of the necessary land may not be undertaken for years ahead.

Perhaps there will be more work for members of the legal profession in the provisions relating to the re-arrangement of county districts than in any other provisions of the Local Government Act of 1929. Section 46 requires the council of every county "as soon as may be after the commencement of the Act," and after conference with representatives of the councils of the districts wholly or partly within the county, to review the circumstances of all such districts, and consider whether it is desirable to alter boundaries, unite districts, convert any rural district into an urban, or any urban district into a rural, or otherwise to re-arrange the county districts. Thereafter the county council are required to submit their proposals in the matter to the Minister of Health, and he, in turn, may make an order giving effect, with or without modifications, to the proposals. It is contemplated that there will be local inquiries in many, if not in all, cases where a material alteration in boundaries is involved, and this is definitely provided for where a local authority objects to a proposal in this regard submitted to the Minister of Health. Judging by past experience, these inquiries are likely to be numerous, and the county proposals in many cases to be highly contested.

The provisions relating to "de-rating" which are included in Pt. VI of the Act, will afford much work for the skilled statistician and chartered accountant, but little "grist" therefrom is likely to find its way to the lawyer's mill. Questions arising under these provisions will commonly be fought out directly between the local authority's treasurer or accountant and the Ministry of Health officials.

As to the possible tendency and effect of "de-rating" on local government, it may be of interest to cite, without comment, a view on the subject recently expressed by the President of the Institute of Municipal Treasurers and Accountants at the annual conference of that body. He said: "I must confess to some apprehension for the future when I reflect that by an extension of "de-rating," or by a readjustment of the formula—or by a combination of the two—local authorities, on account of the consequential increased government control, can be gradually stripped of their autonomy, and that it is only a question of time before the extended operation of these factors would shackle the powers of local authorities by steadily substituting Imperial taxes for local rates, and concurrently, central in lieu of local control."

Since the date of the new Act, namely, the 27th of March last, the Ministry of Health have issued some seventeen explanatory circular letters or memoranda dealing with different phases of the Act or different subjects treated therein. These include, besides a general circular on the Act, memoranda relating to the transfer of the functions of guardians, the changes in highway administration, the "de-rating" provisions, town planning, and the re-arrangement of county districts. The Ministry's memoranda are especially useful at the present stage, before one has had time or opportunity to digest the new legislation; and we believe local authorities and legal practitioners concerned with local government law—and who is not, nowadays—will be grateful to the department in regard to this matter.

Contributory Negligence.

(By ALFRED FELLOWS, B.A., Barrister-at-Law.)

In *Service* v. *Sundell*, reported in *The Times* of 20th June, the Lord Chief Justice disapproved a passage in the judgment of Lord CAMPBELL in *Dowell* v. *General Steam Navigation Company* (1855) 5 E. & B. 195, to the effect that, at law, a plaintiff cannot recover for negligence resulting in an accident, if his own negligence has in any degree contributed to the fact of its occurrence. This case was quoted very fully by Lord BIRKENHEAD in *The s.s. Volute* [1922] 1 A.C. 129, in a judgment stated by Lord FINLAY, with the concurrence of Lord SHAW, to be "a great and permanent contribution to our law on the subject of contributory negligence, and to the science of jurisprudence." Lord BIRKENHEAD's general conclusions are set forth on p. 144 as follows: "Upon the whole I think the question of contributory negligence must be dealt with somewhat broadly and upon common sense principles as a jury would probably deal with it. And while, no doubt, where a clear line can be drawn, the subsequent negligence is the only one to look to, there are cases in which the two acts come so closely together, and the second act of negligence is so much mixed up with the state of things brought about by the first act, that the party secondly negligent, while not held free from blame under the *Bywell Castle* rule, might, on the other hand, invoke the prior negligence as being part of the cause of the collision so as to make it a case of contribution."

The "*Bywell Castle*" (1879) 4 P.D. 219, was the sequel to the collision of that vessel with the much better known "Princess Alice," which sank with the calamitous result of the loss of the lives of 500 passengers and many of the crew. The judges found that the navigation of the "Princess Alice" was such as to render collision inevitable unless the captain of the other ship had instantaneously executed a certain manœuvre which required, according to the judgment of Lord ESHER, then BRETT, L.J., "perfect nerve and presence of mind." He ruled that this was not to be expected of ordinary human nature, and consequently that the captain of the "Bywell Castle" had not been negligent in his failure to execute it.

The facts that the common law and the rules of the Admiralty have throughout dealt with contributory negligence in different ways, while the Admiralty rules, though not assimilated to the common law, were entirely recast by the Maritime Conventions Act, 1911 (1 & 2 Geo. 5, c. 57), raise the issue as to which principle or set of rules better serves the cause of justice, in the very difficult problem of administering it in the case of collision between two swiftly moving vehicles or vessels. In such circumstances the court usually has to proceed through cross-currents of hard swearing to find the facts, and then grapple with the task of apportioning the blame.

In *Service* v. *Sundell*, *supra*, Lord HEWART held that the passage above quoted from *Dowell's Case* was in conflict with three decisions, namely, those of *Tuff* v. *Warman* (1858) 5 C.B. (N.S.) 573; *Radley* v. *L. & N. W. Railway Co.* (1876) 1 A.C. 754, and the Privy Council case of *British Columbia Electric Railway Co.* v. *Loach* [1916] 1 A.C. 719. The general effect of the first two decisions is to add authority to the common law rule that a plaintiff's negligence will not disentitle him to relief in damages if the defendant, by the exercise of ordinary care, could have averted the accident. This doctrine really appears to be recognised in Lord CAMPBELL's judgment in *Dowell's Case*, and the passage considered and disapproved was misleading from being taken out of its proper context. The "*Donkey Case*," *Davies* v. *Mann* (1842) 10 M. & W. 546, was quoted a few lines further down in Lord CAMPBELL's judgment, showing that the above doctrine was clearly in his mind. There the plaintiff had negligently tethered a donkey on a highway, and the defendant ran into it and killed it. The court held that the latter could have avoided killing the donkey if he had exercised ordinary care. In effect, the plaintiff's negligence, though proved, was found not to be a factor in the accident, and therefore, did not disbar him from relief. So one who drives a vehicle on the wrong side of the road is not thereby outlawed, and the drivers of other vehicles must do their best to avoid collision, notwithstanding his disregard of the rule.

The *British Columbia Case* carries the doctrine rather further. The respondent was the administrator of an intestate who had negligently driven from a cross-road on to a main road, and been killed by a collision with the appellant company's tram. In the circumstances, the driver of the tram could not have avoided the accident. One of the circumstances, however, was that the brake of the tram was faulty, which was due to his negligence, for it was his duty to see that it was in proper working order before he drove the tram on the public street. The company was held liable on the ground that, through its servant, it had incapacitated itself from the exercise of due care. The justice of this extension may perhaps be open to some doubt. The appellant's driver might have said: "It is true I was negligent, and if I had not been negligent the accident would not have occurred. Nevertheless, the accident would not have occurred but for the other's negligence, and, even if I was in the wrong myself, I am entitled to expect others to drive with ordinary care. If they fail to do so, the whole fault should not be imputed to me." The difficulties created by this case are illustrated by *Neeman* v. *Hosford* [1920] 2 I.R. 258, in which it appeared that a woman crossing a street in Cork without properly looking out for herself was knocked down by a baker's cart, the boy driver of which had just turned round to prevent some badly packed loaves falling out of it. The woman sued the owner of the cart and the jury found that she was guilty of contributory negligence. On motion for a new trial, GIBSON, J., held that there was misdirection, on the ground that the judge had not appreciated the effect of the driver's "continuing negligence with self-created incapacity" within *Loach's Case*. GORDON, J., agreed. On appeal, CAMPBELL, C., over-ruled the judgment of the court below, distinguishing *Loach's Case* on the ground that the plaintiff's negligence was not "spent" at the time of the accident, but continued up to it. O'CONNOR, L.J., concurred, but RONAN, L.J., delivered a very vigorous dissenting judgment, the whole case filling fifty pages of the report. But for *Loach's Case*, probably there would have been no difficulty.

Loach's Case was also mentioned, but distinguished on the grounds of "*novus actus interveniens*" in *The Paludina* [1927] A.C. 16, in which the House of Lords, by a majority of one, affirmed the decision of the Court of Appeal, which had over-ruled that of DUKE, P., in Admiralty. This case again illustrates the difficulty of deciding responsibility in collisions where more than one party is in fault (three vessels being concerned in the decision).

In *Wellwood* v. *King* [1921] 2 I.R. 274, RONAN, J., cited *Loach's Case* (p. 306) as authority for the proposition that, where the defendant's negligence is excessive speed, and the plaintiff's deficient look-out, the defendant is liable. This deduction, however, appears to be directly contrary to the decision in *Cork Steamship Co.* v. *Kiddle* [1920] 2 Lloyd's List Rep. 505, cited by Lord BIRKENHEAD in *The Volute*, *supra*, at p. 142. In that case H.M.S. "Active" was going at great speed across Channel, necessarily without lights, and collided with the "Ousel," navigated without a proper look-out. It was held that the owners of the "Ousel" had no remedy. Probably, however, one of the rules for avoiding collisions at sea was the deciding factor in the latter case, and no such rules exist for the road, other than those of keeping to the left and overtaking on the right.

It is open to question whether, in these days of fast traffic, these two rules are sufficient. They are, of course, supplemented by the speed limit (which affects motors only) which may be locally varied, but much remains uncertain, as perusal of *Neeman* v. *Hosford* will readily show. And in particular,

notwithstanding one or two Scottish decisions, the rule as to slowing up or giving way on emerging from a side road into a main road is either nebulous or non-existent. The legend in bold type on a side road, a hundred yards from a main road, "Crossing; you are responsible," might have saved many lives. The A.A. notices no doubt are useful, but there is no force of law behind them. And a "*medium filum*" line clearly marked, with the clear rule that a driver who crosses or touches it is *primâ facie* responsible for the safety of the vehicles he meets, would also assist judges and juries, who are now faced with perhaps an inordinately difficult task if contributory negligence is pleaded.

Superstitious Uses.

(By T. BOURCHIER CHILCOTT, Barrister-at-Law.)

A SUPERSTITIOUS use has been defined as one which has for its object the propagation of the rites of a religion not tolerated by law ("Mozley's Law Dictionary").

It is commonly stated that the law relating to such uses depends partly on the common law and partly on the law imposed by statute, the statutes dealing with such uses being 23 Hen. VIII, c. 10; 1 Edw. VI, c. 14; and 1 Geo. I, c. 50; and the principal enactment that of 1 Edw. VI. There was no statute which made superstitious uses void generally. By the common law the King, as head of the Commonwealth, "is obliged and for that purpose entrusted and empowered to see that nothing be done for the propagation of a false religion, and to that end, entitled to pray a discovery to a trust for a superstitious use": *Rex* v. *Portington*, 1 Salk. 162.

At the same time the common law acknowledged more religions than one and would have upheld any gift for the worship of God irrespective of the particular religion according to which the worship was to be offered, provided only such religion was recognised as lawful.

Previously to the Toleration Act (1 Will. & Mary, c. 18) all persons entertaining opinions at variance with the doctrines of the Established Religion were obnoxious to the laws relating to superstitious uses, and gifts to any denomination dissenting from that religion were considered as being for a superstitious use: *Cary* v. *Abbot*, 7 Ves. 490.

The term "superstitious" is found loosely applied to cases where the object of the gift is for the propagation of religious views forbidden by law as well as to gifts where the object is for the benefit, or supposed benefit, of a particular person; hence denominations and members of denominations holding tenets or doctrines differing from the Established Religion were, before the Toleration Act, held obnoxious to what was then considered to be the law relating to superstitious uses.

At common law, however, a gift for any religious purpose having for its object the propagation of the rites of a religion not tolerated by law was void by the general policy of the law, independently of whether the gift could be construed as being for a superstitious use or not: *Heath* v. *Chapman*, 2 Drew 417; and notwithstanding trusts for the purposes of religion have always been recognised in equity as good charitable trusts. But there is no express authority dealing with the question what constitutes religion for the purpose of this rule: Lord PARKER in *Bowman* v. *Secular Society* [1917] A.C. 406, at p. 448, although it may be assumed that religion includes all forms of religion which accept the fundamental doctrine of the Christian Faith: *ibid.*, p. 449.

Before the Reformation superstitious uses appear to have been unknown and probably owe their existence to the statutes of 23 Hen. VIII, c. 10, and 1 Edw. VI, c. 14 (The Chantries Act). Previously to these enactments there were uses known as "pious," many of which after the Reformation were considered superstitious and therefore illegal, and others which, although not considered superstitious, were not strictly "pious": *Queen* v. *Commissioners of Inland Revenue*, 22 Q.B.D., 296, at p. 310. It may be said that every charitable use is in some sense a "pious" use, yet there are many so-called "pious" uses which have no ingredient of charity and could not be construed "charitable" uses: *Heath* v. *Chapman, supra*. It is difficult, however, to discover any precise indication of the principle upon which, or of the enactments by which, the "pious" uses of the common law had been converted into superstitious uses: *Bourne* v. *Keane* [1919] A.C. 815, at p. 891.

Of the statutes above referred to, that of 23 Hen. VIII, c. 10 (repealed by the Mortmain and Charitable Uses Act, 1881), imposed a time limit of twenty years in respect of assurances of land for the performance of obits, or annual funeral services, and appears to have been passed to extend the Law of Mortmain. The statute of 1 Edw. VI, c. 14, applied only to the confiscation of existing bequests wholly employed towards the finding or maintenance of any anniversary, or obit or other like thing, "intent or purpose, or of any light or lamp in any church or chapel to have continuance for ever," which had been kept or maintained within the period of five years, but the Act contained no general prohibition of such bequests, but it was considered as establishing the illegality of certain gifts, and amongst others the giving legacies to priests to pray for the soul of the donor, which was considered as coming within the superstitious uses intended to be suppressed by the statute (*Heath* v. *Chapman, supra*; *West* v. *Shuttleworth*, 2 My. & K. 684).

For a long period the hearing of mass, or the saying of mass, was made illegal by statute, and in 1581, by the statute of 23 Eliz., c. 1, the saying or hearing of the mass was made a criminal offence, punishable by fine and imprisonment, and this statute remained in force until the passing of the Roman Catholic Relief Act, 1791 (31 Geo. III, c. 32), so that after 1581 the question would be, not whether a bequest for masses created a superstitious use, but whether the bequest was confiscated to the Crown under the Chantries Act of 1 Edw. VI, c. 14, or fell to be applied in some other manner. Prior to 1581, there does not appear that there was any case which can be said to have decided that bequests made subsequent to the Chantries Act came within its statutory prohibition (Lord PARMOOR in *Bourne* v. *Keane, supra*, p. 903).

The Roman Catholic Relief Act, 1791, referred to above, mitigated to some extent the provisions of the statute of 23 Eliz., c. 1. Section 17 of the Act providing (*inter alia*), "that all uses, trusts and dispositions, whether of real or personal property, which immediately before the specified date shall be deemed to be superstitious or unlawful, shall continue to be so deemed."

Between the date of the passing of the Roman Catholic Relief Act, 1791, and that of 2 & 3 Will. IV, c. 115, the Roman Catholic Relief Act of 1829 (10 Geo. IV, c. 7), came into force. It was a wider measure than that of the Act of 1791, and subject to certain exceptions, allowed full freedom of worship to Roman Catholics.

By the Act of 2 & 3 Will. IV, c. 115, persons professing the Roman Catholic Religion were placed upon the same footing with respect to their schools, places of religious worship, education and charitable purposes as Protestant Dissenters (Lord COTTENHAM, in *West* v. *Shuttleworth*, 2 My. & K. 684), and by the statute of 7 & 8 Vict., c. 102, the penal statute of 23 Eliz., c. 1, was repealed so that thenceforth there remained no illegality in the Roman Catholic faith.

The effect of 7 & 8 Vict., c. 102, was the recognisance of the Roman Catholic Religion as one which thenceforward could be practised without breach of the law with a right to acquire and hold property for religious worship in the Roman Catholic Religion, and such a right necessarily included a right to celebrate mass according to the tenets and doctrines of the Roman Catholic Church, and the statutory illegality and disability which, up to that time, hindered a bequest for

masses for the dead as a superstitious use having been removed, the special tenets held by that church on masses for the repose of the souls of the dead could not be regarded as contrary to the common law so as to render bequests for such purposes in the nature of superstitious uses, and on that ground void and invalid (*Bourne* v. *Keane*, *supra*).

The effect of the provisions of the statute of 7 & 8 Vict., c. 102, was apparently not fully understood as the subsequent enactment of 23 & 24 Vict., c. 134, recognised and affirmed that there were then tenets of the Roman Catholic Religion which were superstitious, and that bequests for such tenets were in the nature of superstitious uses, but at that date (1860) the decisions of Lord COTTENHAM in *West* v. *Shuttleworth*, *supra*, and of Vice-Chancellor KINDERSLEY in *Heath* v. *Chapman*, *supra*, were in operation.

The decision of the House of Lords in *Bourne* v. *Keane*, *supra*, would seem to have the effect of rendering inoperative or no longer necessary the provisions of the Act of 23 & 24 Vict., c. 134, but it must not be assumed that there are now no superstitious uses or that no gift for any religious purposes, whether Roman Catholic or otherwise, can be invalid (BIRKENHEAD, L.C., in *Bourne* v. *Keane*, *supra*, at p. 860).

Apart from the statutory penalties there was never anything inconsistent with public policy in enforcing a trust for the benefit of any denomination dissenting from the Established Religion, hence there was never anything inconsistent with public policy in enforcing a trust for the benefit of the Jewish Religion (*Da Costa* v. *De Pas*, Amb. 228).

In point of fact the court has enforced a gift (N.B.—not a trust) to a society whose main object was "to promote the principle that human conduct should be based upon natural knowledge and not upon super-natural belief, and that human welfare in this world is the proper end of all thought and action" (*Bowman* v. *Secular Society, Ltd.*, *supra*). On the other hand, the court has refused to enforce a trust for the attainment of political objects (*Att.-Gen.* v. *National Provincial and Union Bank of England and Others* [1924] A.C. 262).

Although the statutory penalties were removed and Roman Catholics placed on the same footing as Protestant Dissenters, the statutes relieving them of their disabilities expressly provided that nothing therein contained should be taken to repeal or alter the provisions of 10 Geo. IV, c. 7, respecting the suppression or prohibition of religious orders or societies of the Church of Rome bound by monastic or religious vows, and such provisions remained in force down to the year 1925, when by the Roman Catholic Relief Act, 1926 (16 & 17 Geo. V, c. 55), all the restraints hitherto imposed by statute on the establishment of such orders and societies of the Church of Rome were removed.

The Act of 1926 repealed the following statutes then in force, namely:—

3 & 4 Edw. VI, c. 10, which gave validity to and recognised the validity of orders made by executive authority requiring books and images to be removed from churches and imposed penalties upon the clergy and members of the Church of England as well as upon Roman Catholics for contravening those orders.

1 Eliz., c. 24 (except certain sections to which it is unnecessary to refer), which provided that gifts given since the death of Edward VI for masses or obits or lights, should vest in the Crown, but the statute did not prohibit such gifts in the future; and

1 Geo. I, Sess. 2, c. 50, which had appointed commissioners to deal with estates of certain traitors in 1715, but it was not limited in its operation to any particular denomination and apparently had no operation beyond the existence of the commissioners.

As the law now stands it will be difficult to discover uses to which the term "superstitious" should be applied, unless it be a trust for the purposes of a religion which does not recognise the fundamental doctrines of the Christian Faith.

Appeals from Irish Courts to the House of Lords.

(By Sir ARTHUR S. QUEKETT, K.C., LL.D.)

THE law regarding appeals from courts in Ireland to the House of Lords has passed through various stages of development. Its progress can best be shown by reference to successive periods in Irish constitutional history.

The earliest period, which may be taken up for this purpose in the reign of JAMES I, ends when GEORGE I was on the throne. From a pamphlet, assigned to the date 1623, we learn that appeals to England were at that time numerous; in the quotation which follows the word "there" refers to Ireland and "here" to England:

"Many of the inhabitants there resort daily here with causeless complaints, and that after their cause received a legal trial before in Ireland, and a judgment passed there upon them; and after upon pretence of some equity or commiseration it is summarily heard there again before the state there at the Council board; yet will they not rest satisfied but must repair to His Majesty and the Lords here, and renew before them the whole cause, which I take to be somewhat a strange precedent and much to the dishonour of the State there and disability of the acts and authority of the Courts of Justice there, who have full power to try, judge and determine all matters and suits of that kingdom."

The writer of the pamphlet proceeds to make an interesting suggestion for the remedy of this state of things:

"It should stand with reason that such things as could not be there conveniently determined, as be matters that touch the governors, the judges or supreme officers, should here be decided by certain choice persons of trust as it were committees deputed by His Majesty for that purpose. These might sit upon all Irish causes here brought . . ."

During the reigns of WILLIAM III and ANNE, the activities of the Irish Parliament and of its House of Lords were increasing, and after the accession of GEORGE I a conflict of jurisdiction arose. At that time the English House of Lords was the ultimate appellate tribunal from the English Courts of Chancery and Common Law, and it assumed the same jurisdiction over the Irish courts. In a suit in one of the Irish courts, appeals were taken both to the Irish House of Lords and to the English House of Lords. These tribunals pronounced disagreeing judgments, each claiming to be the ultimate court of appeal, and neither would give way. The Irish judges pronounced—as might be supposed—for the right of the Irish House of Lords. But the "predominant partner" had the last word, in the form of a declaratory Act of the English Parliament affirming the judicial superiority of the House of Lords at Westminster. This was the statute of 6 Geo. I, ch. 5 (1719), which recited that "the House of Lords of Ireland have of late, against law, assumed to themselves a power and jurisdiction to examine, correct and amend the judgments and decrees of the courts of justice in the kingdom of Ireland," and proceeded to enact "for the better securing of the dependency of Ireland upon the crown of Great Britain . . . that the House of Lords of Ireland have not, nor of right ought to have any jurisdiction to judge of, affirm or reverse any judgment, sentence or decree, given or made in any court within the said kingdom."

The Act of 1719 remained in operation until 1782, and this interval of time forms the second period in the development of the law. It was a period of growing energy on the part of the Irish Parliament, which chafed continually at its subordination to the English Parliament and Government. Its culmination was reached when, in 1782, the Act of 6 Geo. I was repealed, and in the following year the "Renunciation Act" (23 Geo. III, ch. 28), was passed, affirming the right "claimed by the people of Ireland to be bound only by laws enacted by His Majesty and the parliament of that kingdom, in all cases whatever, and to have all actions and suits at law or in equity,

which may be instituted in that kingdom, decided in His Majesty's courts therein finally, and without appeal from thence." The statute went on to provide expressly that no writ of error or appeal should be received or adjudged, or any other proceeding be had, by or in the English courts in any action or suit at law or in equity instituted in the Irish courts. The principle thus established was as short-lived as it had been trenchantly affirmed. Seventeen years later the Act of Union was passed (1800) and the date of that Act was the starting point of a different system.

The Eighth Article of Union provided that all courts of civil and ecclesiastical jurisdiction within Ireland should remain as then by law established: "*Provided that all writs of error and appeals . . . hereafter to be brought, and which might now be finally decided by the House of Lords of either kingdom, shall from and after the union be finally decided by the House of Lords of the United Kingdom.*" The Appellate Jurisdiction Act, 1876 (under which law lords were appointed), and the Supreme Court of Judicature Act (Ireland), 1877, only preserved the existing rights of appeal and did not extend them. In *The Earl of Gosford's Case* [1899] A.C. 435, the appellant petitioned the House of Lords against an order of the Irish Court of Appeal, affirming an order of the Queen's Bench Division refusing writs of *certiorari* and *mandamus* against the Irish Land Commission; the House (Lords HALSBURY, MACNAGHTEN, MORRIS and SHAND) decided that no appeal lay from interlocutory orders of that character. In *Reg.* v. *Barton* [1902] A.C. 268, it was decided that no appeal lay to the House of Lords from an order of the Court of Appeal in Ireland with respect to the issue of a writ of *certiorari*. In effect, it may be said that from 1800 till 1921 there was no substantial change in the law of Irish appeals. There was, of course, no opportunity for conflicts of jurisdiction, such as those which impart a certain liveliness to the pages of pre-Union legal history. The Act of Union rendered this impossible; the Irish courts remained, under the Eighth Article, separate from those of England, whilst the judges became removable upon addresses to the Crown from the United Kingdom Parliament. But during this long period, be it said, the Bench and Bar of Ireland attained a status, and evolved a tradition, of which both north and south are justly proud; it is only fair to pay this tribute before passing to the present position.

The appellate jurisdiction of the House of Lords does not extend to the Irish Free State. That state has "Dominion status," and the provisions of its constitution as to appeals to the Judicial Committee of the Privy Council resemble those of the Union of South Africa. The decision of the Irish Free State Supreme Court is final and conclusive under the constitution, subject to the proviso that "nothing in this Constitution shall impair the right of any person to petition His Majesty for special leave to appeal from the Supreme Court to His Majesty in Council or the right of His Majesty to grant such leave."

From the Northern Ireland courts, on the other hand, an appeal to the House of Lords still lies. Indeed, the appellate jurisdiction is somewhat widened by the Government of Ireland Act, 1920, and the subsequent enactments. There is an appeal from the Court of Appeal in Northern Ireland to the Lords, not only in cases where such an appeal would have lain from the Irish Court of Appeal under the jurisdiction given by the Act of Union, but also in two other classes of case:—

(i) Where a person is aggrieved by a decision of the Northern Ireland Court of Appeal in proceedings taken by way of *certiorari*, *mandamus*, *quo warranto* or prohibition;

(ii) Where a decision of the Northern Ireland Court of Appeal involves a decision of any question as to the validity of a law made by the Parliament of Northern Ireland, and the decision is not otherwise subject to appeal.

The appeal at (ii) is subject to leave being given by the Court of Appeal or the House of Lords. This appeal is, it should be noted, the channel through which cases may reach the House of Lords from various courts of first instance. A special provision in the Government of Ireland Act ensures that an appeal shall lie to the Northern Ireland Court of Appeal, "*where any decision of a court*" in Northern Ireland involves a question as to the validity of a law of the Parliament, and the decision is not otherwise subject to appeal to the Court of Appeal. Once a case of this kind reaches the Court of Appeal, it falls within class (ii) above, and may be taken (with leave) to the House of Lords.

The reconditioning of Rural Cottages.

So many statutes, mostly of public interest and importance, have been passed in recent years, that it is little wonder if some of the shorter Acts which do not affect everybody may have been rather lost sight of, except by officials and other persons who are concerned to take advantage of them, or superintend their operation. Here is a case in point: The writer happens to own some agricultural land in the west of England let to a farmer and worked as part of a larger farm. The only dwelling upon the land is a small cottage usually occupied by an agricultural labourer in the tenant's service. The tenant recently wrote to the owner and informed him that the cottage, which is probably eighty to one hundred years old, was getting into a poor state of repair, and ought to be reconditioned. He advised the writer, before doing anything else, to apply to the county council for financial assistance, which would be readily given in a proper case, subject to certain conditions. This came as a welcome surprise to the owner, who wondered what statutory authority there was for lending or making a grant of public money to the landlord of a more or less dilapidated building, and having perused the Housing Act, 1925, and referred to Agricultural Holdings Acts in vain, he wrote to the clerk of the county council, and received by return forms of application and other papers under an Act which he must admit he then heard of for the first time—the Housing (Rural Workers) Act, 1926, 16 & 17 Geo. 5, c. 56. The Act is, perhaps, best described by its full title: "An Act to promote the provision of housing accommodation for rural workers, and for persons whose economic condition is substantially the same as that of such workers, and the improvement of such accommodation, by authorising the giving of financial assistance towards the reconstruction and improvement of houses and other buildings."

The authors of the Act realised, as we who live in or within easy reach of cities and towns hardly do realise, that all over England in country districts, such as are sometimes described as being "at the back of beyond," there were numbers of old cottages rapidly falling into decay, and thereby hastening the depopulation of the agricultural areas and helping to drive the farm labourer to seek work in the towns. The Act has now got into working order, and will be of considerable use in staying this process, but advantage must be taken of its provisions within the next two years, or not at all.

Section 1 empowers the "local authority" (the county council or council of a county borough) to submit schemes to the Minister of Health for the improvement of houses or buildings within its area and to give assistance towards reconstruction. Every such scheme is to specify the cases in which assistance may be given, and the nature of the works required. By s. 2, assistance may be given either by grant or by loan or partly by each, but no assistance is to be given (*a*) where the value of the house after the work is done exceeds £400; (*b*) where the estimated cost of the work to be done is less than £50 (subject to a proviso in the case of work for the joint benefit of two or more dwellings); (*c*) unless the application is made before 1st October, 1931; (*d*) where the applicant's interest is leasehold for a term of less than thirty years

unexpired; (*e*) unless the local authority is satisfied that the dwelling after completion will be in all respects fit for habitation by persons of the working classes.

The grant may take the form either of a lump sum paid after completion of the works, or periodical sums spread over not more than twenty years, to repay advances, but it must not exceed either (*a*) two-thirds of the estimated cost of the works; or (*b*) £100 for each dwelling. It follows that every owner who takes advantage of the Act will have to spend a sum of between £17 and £50 out of his own pocket in respect of each dwelling; more than it would pay him to spend, in many cases, if he could not get some assistance. Then follow various provisions with respect to loans made under the section providing for a valuation by the local authority and repayment of principal and interest by instalments. Section 3 imposes certain conditions as to the occupation of dwellings so assisted. The occupier must be a person whose income is such that he would not ordinarily pay a higher rent than is usually paid by agricultural workers in the district, and the rent must not be greater than the normal agricultural rent. And the owner must, if required, from time to time give a certificate to the local authority that these conditions are being complied with. This should effectually exclude persons who buy up old cottages with intent to use them for occasional week-end occupation in the summer from the benefits of the Act. But if Mr. and Mrs. Hodge, while in occupation of their reconditioned cottage, win a prize in a competition or otherwise come into money, they are not to be obliged to quit their old home if the local authority assent to their remaining. If the owner chooses, within twenty years, to pay off the grant with compound interest, the dwelling will be freed from the conditions. Under s. 4 the Government is to make contributions towards the expenses of the local authorities in making grants to the extent of half the amount. Section 5 authorises the local authorities to borrow moneys required under s. 69 of the Local Government Act, 1888. By ss. 6 and 7, a person to whom assistance is given by the local authority is not disqualified for being elected a member of the authority, but he may not vote on any question under the Act if it relates to any house in which he is interested. The Act applies with certain modifications to Scotland, but not to Northern Ireland or the administrative County of London. The rate of interest on mortgages is to be prescribed by the Minister of Health.

Industry, Commerce and Finance.

Stamp Duties.

It is stated that efforts are being made to obtain a modification of stamp duties in respect of issues of securities on behalf of the Dominions. At the present time a duty of £2 per cent. is paid on all introductions and certificates to bearer and £1 is payable on every transfer of such registered stocks. Dominion Government and local loans receive a preferential treatment which does not extend to other issues. It is suggested that on issues to bearer securities by local boards and commercial and industrial undertakings in British territory the stamp duty should be reduced by 1 per cent. In respect of all Dominion municipal issues the suggested reduction is 10s per cent., and on composition for stamp duty in respect of issues by councils, corporations or companies in British territory 50 per cent. of the rates at present ruling. It is stated that the proposals are supported by the leading financial interests in this country.

Penalties after Death.

Inspectors of taxes sometimes attempt to obtain a settlement with executors in respect of the unassessed income tax liability of a deceased person by payment of a lump sum to include tax, interest thereon and "mitigated penalties" for the failure of the deceased to make adequate returns. Such claims should, of course, be resisted. We have recently stated the powers of the Revenue authorities in such matters, and it is necessary in this connexion only to add that, on the principle that *actio personalis moritur cum persona*, penalty proceedings cannot be taken against executors for failings of the deceased.

Shipping Duties.

The words of Mr. John Denholm, in his presidential address at the annual meeting of the Baltic and International Maritime Conference, on the excessive imposts on shipping, will be confirmed by all who have a knowledge of the position. In addition to the heavy taxation imposed in its own country, many states tax shipping visiting their shores. Abroad shipping pays for all the services rendered to it by public authorities in the form of harbour dues, pilotage and so forth, and it is considered most unfair that in addition it be saddled with other forms of taxation. Mr. Denholm pointed out that in the long run this will react on the countries imposing the taxation, as, naturally, shipowners will need to insist on higher rates of freight, and this, in its turn, will increase the cost of living in those countries.

Science and Industry.

The dependence of industry upon scientific research was never more apparent than at the present time and it is good to note that the subject is to be the keynote of the meeting of the British Association in South Africa next month. Industry has long been prone to overlook the importance of science to its development and science frequently carries on valuable research work merely for the sake of science. Anything, therefore, which will promote a better understanding between the two, and tend to encourage them to unite in a single effort will be welcomed by all who have the prosperity of this country at heart. Sir Thomas Holland will be installed as president of the British Association and the meeting is eagerly anticipated in South Africa which has not been visited by the Association since 1905.

Cash Accounts.

We have heard of two cases recently, where local inspectors of taxes have sought to induce solicitors to change the basis of accounts they render for income-tax assessment from a cash to an earnings basis. Quite apart from the fact that the revenue authorities have little to gain over a period of years from such a change, and that it has become established practice for professional people to be assessed on a cash basis, it must be remembered that inspectors of taxes have no power whatever to demand such a change. Such a requisition is in the power of the Commissioners who make the assessment, and it is seldom that bodies of local commissioners will support an inspector in an attempt to reopen years already agreed, unless some special circumstances exist. So far as the revenue is concerned, the difficulty is that, when a professional man who has been assessed on a cash basis ceases to carry on his business, they have no power to make assessments on the book debts he recovers after his retirement. This point is frequently lost sight of by taxpayers and practitioners, but it is certainly one important reason why the revenue authorities show no great favour for cash accounts.

Confidential Information.

No definite steps have yet been taken to amend the provisions of the Income Tax Act, which require solicitors to make returns to inspectors of taxes of moneys received by them on behalf of clients. Mr. Churchill professed ignorance of the anomaly although our revelation of the seriousness of the situation was taken up by all the principal professional papers, including *The Accountant*, *Taxation* and *The Secretary*. That a solicitor should be required by law to divulge confidential information entrusted to him by clients is a scandal of the first order. The very foundation of our profession is the inviolability of its members, and the Government must see that even the law is not permitted to shake those foundations.

Puisne Mortgages.

(By HERBERT W. CLEMENTS, Barrister-at-Law.)

It is a matter of some interest, which has often been observed upon, that whilst, under what is still spoken of as the new Law of Property legislation, the legal estate which was beginning to be bereft of some of its importance was re-established with added prestige, yet in relation to mortgages the possession of the legal estate (so all-important before 1926) is no longer such a vital matter. In fact a legal mortgagee of freeholds may be relegated to the ignominious position of a "puisne" mortgagee, which would have astonished some of the old conveyancers not a little. However, the expression "puisne mortgage" has been given a new meaning, and is now defined as a legal mortgage not protected by a deposit of documents relating to the legal estate affected. This seems the natural outcome of the new law relating to mortgages. Where, before 1926, there were two or more mortgages upon freehold property the legal estate was, of course, vested in the first mortgagee, the second and subsequent mortgages being simply mortgages of the equity of redemption and were often called "puisne" mortgages. In such cases the title deeds would invariably be with the first mortgagee and the subsequent mortgagees would hold none of the documents affecting the legal estate. Now these second and subsequent mortgages are converted into legal mortgages secured by legal terms of years but still not protected by a deposit of the documents of title to the legal estate. Hence it follows that the question of importance is not "who has the legal estate?"—since there may be several mortgagees with legal estates—but "who has the deeds?" The new meaning given to the expression "puisne mortgage" appears, therefore, to emerge naturally from the new legislation.

The first question which is suggested by the new definition is, of course, what is meant by "documents relating to the legal estate." On this point neither the L.C.A., 1925, nor the L.P.A., 1925, throws any light. The question is of no little importance to mortgagees because puisne mortgages require registration under the L.C.A., 1925, s. 10 (1), class C (i). It is generally assumed that the documents referred to are not necessarily all the documents of title, but such of them as a prudent mortgagee would obtain, and especially the conveyance or other instrument under which the property became vested in the mortgagor. This appears to be the only reasonable view, but, accepting that construction, there might well be several legal mortgages of the same property all protected by the deposit of documents relating to the legal estate affected, and therefore not puisne mortgages requiring registration, a state of things which seems likely to provide some difficult problems.

A further difficulty arises in considering the priorities of puisne mortgagees and equitable mortgagees without a deposit of the requisite documents, *inter se*. By s. 97 of the L.P.A., every such mortgage ranks according to its date of registration as a land charge pursuant to the L.C.A., 1925. But by s. 13 (2) of the latter Act a land charge of the classes there mentioned (which include puisne mortgages and equitable mortgages or charges not protected by a deposit of documents) created or arising after the commencement of the Act, shall be void as against a purchaser of the land charged therewith or of any interest in such land, unless the land charge is registered in the appropriate register before the completion of the purchase. It will be noted that under s. 20 (8) of the L.C.A., unless the context otherwise requires, "purchaser" includes a mortgagee for valuable consideration and "purchase" has a corresponding meaning. So if A be a puisne mortgagee and the mortgagor create another puisne mortgage in favour of B before A registers his mortgage as a land charge, A's mortgage becomes void under the L.C.A. as against B immediately upon the mortgage to B being completed, and this would seem to be so although B never registers at all. On the other hand, under s. 97 of the L.P.A., the priorities would be determined by the dates of registration, and A could secure priority by registering before B. This difficulty, which certainly appears to be a serious one, would be overcome if the court were to hold that in s. 13 (2) of the L.C.A. the context requires that the expression "purchaser" shall not include a person taking a puisne mortgage or other charge which requires registration under the Act. But the context which so requires is not easy to find.

Estate Agents' Registration.

(By JOHN STEVENSON, F.I.S.A., Barrister-at-Law.)

I think, first, it is better to dispose of the question, "Registration—Permissive or Compulsory?" And here I find myself entirely in agreement with Mr. E. H. Blake, secretary of the Auctioneers' Institute. Many of your readers have doubtless watched the pitiful fall from grace of the Architects' Registration Bill. Like Pharaoh, the Royal Institute of British Architects hardened their hearts, and first produced a Bill very much like the Landed Property Practitioners' Bill, 1922. Then, like Pharaoh they collapsed unconditionally and entirely altered their Bill so as to make it permissive in character, and of no use to anybody, whether public or profession.

It is my firm view that a Registration Bill, however wide you make the eligibility for registration in the first place, must be compulsory, and so framed as gradually to tighten up the conditions of entry to the register. The passing of the examinations of one of the recognised professional bodies, included in a schedule to the Bill, would be the most important of such future conditions.

I think it useful here to emphasise that in the majority of our Dominions, in a growing number of the American States, in France, and in Germany, there is considerably greater control, in the interests of public and profession alike, of auctioneering and estate agency. In many countries a comprehensive Licensing or Registration Act has been in force for years past, and in others, at any rate, some proof is required of a person's financial stability and personal integrity before authority to practise is given. About actual educational qualifications there is more hesitancy, but here also the tendency to add these to the conditions is growing apace.

The next query is, "Has a Registration Bill any chance of surmounting opposition from outside the profession, and of obtaining the seal of Parliamentary sanction?" To this I answer that certainly until the professional societies are agreed as to the form registration shall take, the public will not greatly interest itself in wrangles around alternative schemes, yet with this proviso—if the profession, not unlike certain industries which shall be nameless, does not in good time take action, others may do for their own protection what they would not do in mere disinterestedness. The "Writing on the Wall" is the serious increase in recent years of criminal misappropriation of trust moneys by estate agents. The fact that few of these have been members of professional societies is in itself an argument for a tightening up of control, for it would, I think, be true to say that the wholesome fear of disciplinary action proves a check on dishonest inclinations, while, looking at such matters from another angle, surely good environment is not without its influence on the individual.

A policy of drift is as much to the detriment of professions as of political parties, and if the professional societies are to continue masters in their own houses they must put them in order. Better opportunities of business, legalised scales of commission, general recognition of qualifications, the outlawing of the undesirables—these and many other things wait upon agreement. Already accountants and insurance agents are making ready to follow upon lawyers, doctors, dentists and architects, with a demand for a register, while among trades

unions leaders it has been recognised that to promote efficiency, to get quickly at the economics of the probabilities of employment in any trade, here, too, registration is not merely desirable but a first necessity. And, after all, the gulf between "profession" and "trade" is mainly an artificial one, widened by false standards and snobbery. The reasons for joining a guild or craft union, or for joining a "professional society" do not greatly differ. One joins first to improve one's own prospects of obtaining reward, to improve the chances of the whole craft, to strengthen it in negotiation, to keep discipline, to promote comradeship within its ranks, to better the skill of the craft.

As regards the last of these objects, we live in a time when "science" has attained a much wider meaning. The B.Sc. (Estate Management) is not a singular development, but one of a number. Examinations for salesmen, for those entering the various—acknowledged—trades are sprouting rapidly, and bringing nearer the time when those who work in the factory and the shop will no longer be considered, socially and educationally, the inferiors of others whose place of business is styled "chambers" or "offices."

What permanent use, therefore, is it to attempt to subdivide the profession into "professional" and "commercial" sections? Will, as a logical sequence, public advertising—an essential part of estate agency—be summarily forbidden? Or rather, will it be found as impossible to mark out the dividing line as, a year since, in another connexion, it was found impracticable to mark out a definite boundary between the functions of the architect and the engineer?

So, the conclusion I reach is that no scheme of registration has a chance of success unless and until the societies concerned realise that the profession, business, or trade of estate agency must be dealt with *in the light of present conditions, and present standards of conduct.*

In addition, I would also express the opinion that there is no solid ground whatever for the fear that registration would undermine the position of the professional societies, although, as I have stated, the recognition of well-founded and time-tested examinations must be an integral part of the scheme, I have yet to learn that the professional man who has left examinations behind him, dissociates himself from his Alma Mater. On the contrary, the vast majority take every available opportunity for forgathering, whether to discuss new methods, or to meet old friends.

Government Departments as Appeal Tribunals.

(By RANDOLPH A. GLEN, M.A., LL.B.)

Under the heading "Hungry K.C." the daily papers made fun of the plight of a learned leader and several juniors at a recent inquiry held by an inspector of the Ministry of Health. The inspector appears to have been a kind of robot who gives no thought to the inner man. He refused to adjourn for lunch. All counsel protested. Their protests being of no avail, they ordered some sandwiches and bottles of beer to be brought in from outside, and were proceeding to partake when the inspector ordered the victuals to be removed. Counsel intimated that, if no adjournment was allowed, they proposed to consume the said victuals then and there. High words passed, and the inquiry was adjourned *sine die*. That sort of thing is not calculated to remove the dissatisfaction felt in many quarters with the way in which justice is administered by government departments.

Questions were asked in the House of Commons not long ago with a view to ascertaining the principles upon which the Minister of Health really decided appeals to him under the Private Street Works Act, 1892, in relation to the "degree of benefit" point. Evasive replies were made, and no satisfaction could be obtained from that method of seeking for enlightenment. Very seldom are grounds given for decisions, and it is far more difficult to advise as to the probable result of one of these appeals than it is to forecast the decision of a real court of justice. And yet nearly every new Act that is passed takes more and more away from the jurisdiction of such courts and leaves more and more in the hands of the departments, meaning thereby some unnamed and unseen permanent official.

Moreover, these enactments always make the decisions final, so that, however wrong they may be, there is no method of upsetting them when once they have been pronounced. In the famous *Arlidge Case* (*Rex* v. *Local Government Board*, L.R. [1915] A.C. 120), an attempt to make the Board deal with an appeal in accordance with the ideas of the man in the street as to how justice should be administered failed in the House of Lords, though the majority of the Court of Appeal were of opinion that the principles of "natural justice" had clearly been infringed.

There used to be power to compel the Local Government Board to state a case for the opinion of the High Court when a party wished to obtain such an opinion in relation to a dispute as to main roads under s. 11 of the Local Government Act, 1888. In a case of *Re Kent C.C. and Sandgate Local Board*, L.R. [1895] 2 Q.B. 43, the Board were ordered to state a case and their appeal against the order was dismissed. That did not suit the Board. They promptly got Parliament to pass the Local Government (Determination of Differences) Act, 1896, which prevented the court making such an order. In some cases, however, there is still power to compel the Board (now the Minister of Health) to state such a case. Thus, in *Lancaster* v. *Burnley Corporation*, L.R. [1915] 1 K.B. 259, a case was stated by the Board under the proviso to s. 39 (1) of the Housing Act of 1919 (now s. 115 (1) (*a*) of the Act of 1925), which provides that the Board (now Minister) "may at any stage of the proceedings on appeal, and shall, if so directed by the High Court, state in the form of a special case for the opinion of the court any question of law arising in the course of the appeal." *White* v. *St. Marylebone B.C.*, L.R. [1915] 3 K.B. 249, was a similar case. In both cases important points of law were decided by the High Court, and in my view there is no reason why all government departments should not be compellable to state such cases upon any points of law arising upon any appeal to them.

There is an excellent prerogative writ known as a writ of "prohibition." It is sometimes possible to use this against a government department. The most recent reported instance is to be found in *Rex* (*Davis*) v. *Minister of Health* [1929] W.N. 81. There the Minister was on the point of approving a clause in an improvement scheme which, in the opinion of the property owners affected, was *ultra vires*. Before the approval was a *fait accompli*, they obtained a rule *nisi* for this writ. The Minister, in the unanimous opinion of the Divisional Court and Court of Appeal, failed to justify the clause and was prohibited from approving it. In another case, he had given his approval to the same clause in another such scheme before he could be stopped. But, by a stroke of luck for the owner, the local authority made a mistake in the service of their notice to treat. The three years for compulsory purchase had gone by, and therefore no fresh notice to treat could be served. So the local authority applied to the Minister, under s. 122 of the Housing Act, 1925, to use his power to "dispense" with the notice. This application was very properly notified by the Minister to the owner, who lost no time in applying for a rule *nisi* for the same writ, on the ground that the Minister could not dispense with the notice in order to enable the local authority to put in force the *ultra vires* clause. He obtained his rule, and it remains to be seen whether cause will be shown.

Some government departments are quite ready to assist in the elucidation by the courts of difficult points of law. For instance, the Treasury have just given certain appellants to them, on a matter relating to compensation for loss of office,

special facilities, by way of the prerogative writ of *mandamus*, for obtaining a decision of the Divisional Court on the points involved, and were most helpful in even agreeing the terms of the affidavit upon which the application for the rule is to be made. No obstacle whatever has been placed in the way of the appellants, and it is quite refreshing to be able to record this particular action of a government department.

In a case which will come before the Divisional Court shortly, another government department, in correspondence extending over a long period, relied upon the existence of a certain document as a justification of their action. A rule *nisi* for *mandamus* to disclose the document was obtained on the ground that the official privilege that was claimed for it did not apply. An affidavit in answer has now been filed in which it is sworn that the document never existed at all, and that the department's action is justified without it. This matter being *sub judice*, nothing more can be said about it, except that it discloses one more instance of the peculiar attitude which a government department is capable of adopting in a dispute with a subject.

When, if ever, Parliament tackles the recommendations of the Royal Commission as to proceedings by and against the Crown, it is to be hoped that some provisions will be enacted which will remove the present feeling that "natural justice" is hard to obtain from Whitehall.

A Conveyancer's Diary.

By Sir BENJAMIN CHERRY, LL.B.

Overreaching of Equitable Charges.

Under s. 72 (2) of the S.L.A., 1925, the only equitable interests which cannot be overreached are leases, fee farm grants, easements and rights created for money's worth, which, if registrable, are duly registered under the Land Charges Act. The reason is that second and subsequent mortgages have, as a rule, been converted into legal mortgages, long terms being vested in the mortgagees: L.P.A., 1925, 1st Sched., Pt. VII.

There are, however, some exceptions. For instance, if before 1926 a legal mortgage in fee is made for securing, say £15,000, and the beneficial interest in the mortgage debt eventually becomes vested in A, B and C in equal shares, then, if the mortgagees, before 1926, transfer £5,000 to A and convey one third undivided share in the land to A in fee simple for securing his £5,000, and similarly transfer £5,000 to B, and convey one third undivided share in the land to him, and re-convey the remaining one third share to the uses of a settlement affecting the entirety of the equity of redemption, C's £5,000 having been paid off out of capital money, it follows that immediately before the 1st January, 1926, the mortgage estate would have stood limited as to one third to A in fee simple, and as to another third to B in fee simple, while the remaining third had ceased to be a mortgage estate.

In these circumstances Pt. IV (relating to undivided shares) of the First Schedule to the L.P.A., 1925, does not apply, nor does s. 102 (relating to the mortgagor's estate) apply, nor is any term of 3,000 years vested in A or B under Pt. VII of that Schedule; for under para. 7 (*b*) of Pt. II of that Schedule a legal estate can only vest in a mortgagee for a term of years absolute, and under para. 7 (*f*) no legal estate can vest in a person for an undivided share; see also s. 1 (6).

It follows that the mortgage which before 1926 was a legal mortgage has, by virtue of the Act, been converted into an equitable charge: s. 1 (3); 1st Sched., Pt. I. Accordingly under s. 72 of the S.L.A. it is now capable of being overreached; though when overreached the capital money will be liable to be applied in discharging the subsisting mortgage debts.

This is as it should be, for the ill-advised severance of the mortgage estate was the act of the parties; such an act, however, is now prohibited by L.P.A., 1925, s. 36 (3). That sub-section also prohibits the severance of a trust estate where the severance would create a tenancy in common.

Similarly if, before 1926, an equitable charge, not purporting to convey any estate, for securing money actually raised, had been created this was formerly paramount to the settlement, and could not be overreached; S.L.A., 1882, s. 20 (2) (ii). After 1925 such a charge can be overreached, for in this case no legal term is vested in the mortgagee: 1st Sched., Pt. II, para. 6 (*a*).

In both cases the tenant for life can, under S.L.A., 1925, s. 16 (4), if required, create legal charges for giving effect to the equitable rights. For that purpose, it is conceived that, the entirety of part of the land affected by the respective charges of A and B can be made the subject of a legal charge.

Contingent Interests in Undivided Shares created before 1926.

Where immediately before 1926 all the undivided shares are "vested" in possession, then L.P.A., 1925, 1st Sched., Pt. IV, para. 1, applies.

If, however, any of the shares are contingent (not vested though liable to be divested) then, unless the land is settled land, see *Re Bird*, 1927, 1 Ch. 210, it is submitted that para. 2 of Pt. IV of the 1st Schedule may cover the case; for that paragraph applies where undivided shares created before 1926 fall into possession after 1925, the land not being settled land when the shares fall into possession.

If para. 2 does not meet the case, then it is submitted that the word "vested" in para. 1 will not be construed in its technical sense, but as meaning "being." For, obviously, the two paragraphs are intended to cover all possible cases where the land is in possession and is not settled land: see s. 1 (6).

Extinguishment of Manorial Incidents.

The time is now approaching (1st January, 1931), when lords of manors will be in a position to serve notices on the owners of enfranchised lands to extinguish the manorial incidents: L.P.A., 1922, s. 138 (1) (*b*). In the meantime extinguishments have, no doubt, been effected at a very considerable rate in view of the obligation imposed by s. 129 to produce assurances affecting the legal estate in enfranchised land to the steward for endorsement, when the fines and fees have to be paid.

It seems, however, to have escaped notice that it is expedient, with a view to avoiding additional fines and fees, particularly where the fine is arbitrary, that the extinguishment should be effected by the existing owner of the enfranchised land (called "the tenant" by the Act: s. 189), before any transaction is effected which would involve the payment of a new set of fines and fees: see ss. 128 (1), 130.

Landlord and Tenant Notebook.

Increase of Rent on account of increase of Rates.

Paragraph (*b*) of s. 2 (1) of the Increase of Rent and Mortgage Interest (Restrictions) Act, 1920, confers on a landlord of premises within the Rent Acts the right to increase the standard rent by "an amount not exceeding any increase in the amount for the time being payable by the landlord in respect of rates over the corresponding amount paid in respect of the yearly, half-yearly, or other period which included the third day of August, nineteen hundred and fourteen, or in the case of a dwelling-house for which no rates were payable in respect of any period which included the said date, the period which included the date on which the rates first became payable thereafter," and by the definition section in the Act (i.e., s. 12 (1) (*d*)), it is provided that "the expression 'rates' includes water rents and charges,

and any increase in rates payable by him until the rate is next demanded."

There have been a number of decisions on the above para. (*b*) of s. 2 (1), and attention may be here drawn to some of the more important points which have been decided.

Where the amount which the landlord has to pay for rates has been increased, but the increase is due not to any increase in the rates levied, but to an increase in the rateable value of the property itself, the landlord will equally be entitled to increase the standard rent by an amount equivalent to the increased amount which he has to pay in respect of rates: *Steel* v. *Mahoney*, 34 T.L.R. 327.

Where a landlord has compounded with the rating authorities, and is allowed to deduct a certain portion of the amount which would otherwise have been payable by the occupier in respect of the rates, he must pass on the benefit of this allowance to the tenant, and the increase, therefore, must be calculated, not on the full amount of the rates that would have ordinarily been payable, but on such lesser amount as is in fact actually payable.

Nicholson v. *Jackson*, 37 T.L.R. 887, a House of Lords decision, is an authority for this proposition, and the *ratio decidendi* of that case may be found in the judgment of Viscount Cave, who said (*ib.*, at p. 889) :—" The expression ' the amount for the time being payable by the landlord in respect of such rates,' means, I think, the amount which at the material time —that is to say, at the time when the rent is raised—the landlord is compellable to pay in respect of rates. If he has agreed with the tenant to pay the rates and has entered into no compounding agreement, he can be compelled to pay the tenant's rates in full, and can, of course, take credit for the full amount of the increase. But if (as in the present case) he has entered into an agreement with the overseers under s. 3 of the Poor Rate Assessment and Collection Act, 1869, whereby he agrees to pay the rates on the premises, whether occupied or not, and they agree to allow him a commission of 25 per cent. on the rates, then he cannot (except by reason of his own default) be compelled to pay more than 75 per cent. of the rates as assessed, and that is the amount for the time being payable by him."

The principle of *Nicholson* v. *Jackson* was applied in *Hodgkinson* v. *Hewitt*, 44 T.L.R. 695.

In that case the occupier had previously been rated in respect of the premises, but by virtue of a resolution passed by the corporation subsequently in pursuance of an Act of Parliament, the incidence of the rates was transferred to the owner and the basis of the assessment was altered to nine-tenths of the full rate. It was held that the landlord was entitled to increase the rent, but only by an amount equivalent to 90 per cent. of the full consolidated rate.

The court was of opinion that there had been an " increase " of the rates payable by the landlord, over the corresponding amount paid in 1914, such as was contemplated by s. 2 (1) (*b*) of the Increase of Rent and Mortgage Interest Restrictions Act, 1920, and the court was further of opinion, that, even in cases in which it might be urged that there was strictly no such increase, because of the payment of rates during the earlier corresponding period by the occupier and not by the landlord, but that there was instead a transfer of a burden or liability within s. 2 (3) of the above-named Act, the principle of *Nicholson* v. *Jackson* would equally apply.

Where the rent payable by a tenant is greater than the standard rent, and a reduction is made in the amount of the rates payable in respect of the premises, the landlord must make a proportionate reduction in the rent: *Strickland* v. *Palmer*, 40 T.L.R. 649.

In conclusion, it may be noted that, *inter alia*, two conditions precedent must be satisfied before any of the statutory increases of rent can be lawfully made, viz. . . . that the contractual tenancy must have been determined and that a proper and valid notice of increase of rent must have been served.

Our County Court Letter.

DISTRAINT UPON HIRE-PURCHASED GOODS.

The Divisional Court have upheld the judgment given at Nottingham County Court in *Smart Brothers Limited* v. *Holt and Others* [1929] W.N. 166. The plaintiffs were the owners, under a hire-purchase agreement, of certain furniture hired by the tenant of a house, the rent of which fell into arrear to the extent of £62 10s. There were also instalments amounting to £8 2s. 6d. due to the plaintiffs, and the hirer was served with notice under the agreement that the latter was terminated and that the plaintiffs would send a van and re-possess themselves of the goods. In the meantime, however, the above-named defendant exercised her right of distress as landlord, and seized, *inter alia*, the furniture held in hire-purchase. The plaintiffs therefore served notices under the Law of Distress Amendment Act, 1908 (c. 53), s. 1, stating that they were the owners of the goods, but the same were sold in due course. An action for damages for illegal distress was subsequently brought under the above Act, s. 2, against the landlord, her bailiff, and the auctioneers, and His Honour Judge Hildyard, K.C., gave judgment for the plaintiffs for £85 and costs. The defendants appealed on the ground that the above Act, under s. 4, does not apply to goods . . . comprised in any . . . hire-purchase agreement, and that the above furniture was therefore not exempt from distress. The plaintiffs admitted the right to levy if the agreement was still in force, but they contended that it had been duly terminated before the seizure, and that the goods were their property. Mr. Justice Talbot held that as soon as the notice was sent the tenant's position as hirer came to an end, and neither party had further rights under the agreement. The plaintiffs' title to the goods was not based on the agreement, and in resuming possession they were merely exercising their common law rights. Mr. Justice Wright concurred in dismissing the appeal.

The presence of the clause entitling the plaintiffs to determine the agreement absolutely—so that the hirer should no longer be in possession of the goods with their consent—distinguished the above case from *Hackney Furnishing Co. Ltd.* v. *Watts* [1912] 3 K.B. 225. The agreement in that case provided that if the instalments were in arrear, or the furniture were seized by legal process, the plaintiffs could resume possession without formal demand, but there was no reservation of the right to terminate the agreement by notice. Notice of determination was in fact given, however, by a letter from the plaintiffs' solicitors, and, though there was no physical attempt to resume possession, a writ for damages for detinue was issued. The landlord's agent afterwards distrained for rent, and the plaintiffs served notice under the above Act, s. 1, but the landlord relied upon s. 4 and contended that the goods were not privileged. The plaintiffs therefore paid £13 2s. to release the goods and sued for that amount as (*a*) money received to their use ; (*b*) damages for illegal distress. Judgment was given for the defendant in the county court, on the ground that under a further clause in the agreement the hirer had the option of re-taking possession on certain terms for twenty-eight days, and that until that period expired the hire-purchase agreement was still in existence. This decision was upheld by the Divisional Court (Mr. Justice Phillimore, as he then was, and Mr. Justice Bray), who pointed out that the letter purporting to terminate the hiring was an assumption of a power which the owners had not retained.

The owners' rights can be exercised by themselves alone, as shown by the recent case of *Horsenail* v. *Rice* at Thetford County Court. Judgment had been obtained at Croydon County Court, and execution had been levied at East Harling, an interpleader issue then being directed as to a claim by the defendant's wife to certain furniture (*a*) under a deed of gift, (*b*) as bailee under a hire-purchase agreement. His Honour Judge Herbert Smith held that claim (*a*) was substantiated,

but in the absence of the owner as claimant the wife could not claim the furniture comprised in the hire-purchase agreement, even though she had rights as a bailee.

This ruling did not imply, however, that the goods could be retained by the judgment creditor, as if the latter were to sell the goods he could be sued for money had and received to the use of the owner. It was held in *Jones Brothers (Holloway) Limited* v. *Woodhouse* (1923), 67 Sol. J. 518, that this liability to refund existed even where the execution creditor was also the landlord, who had obtained judgment for arrears of rent.

Practice Notes.

SOLICITORS' CLERKS AND NATIONAL INSURANCE.

The disadvantages of stamping cards quarterly were recently revealed at Plymouth, where Mr. Kenrick Eyton Peck was charged on eight summonses for failing to pay national health and unemployment insurance contributions, in respect of four employees for the week commencing the 11th March, 1929, and also with wilfully obstructing a lady inspector in the exercise of her powers under the National Health Insurance Act, 1924, s. 92 (1) (*d*), and the Unemployment Insurance Act, 1920, s. 29 (1) (*d*). The defendant's managing clerk was also summoned under the last two sections. The case for the Ministry was that the wages books showed that four employees were insurable, that their wages were paid weekly, and that deductions were made weekly, but it was found that their cards had not been stamped. The lady inspector therefore sought to remove the cards, but on permission being refused she telephoned to the Ministry of Health for the district inspector, who explained on arrival that it was desired to take statements from the insurable employees, but facilities were refused. The district inspector contended that they were also justified in retaining the cards, even if only given for inspection, as the employers had been previously warned, but there was no suggestion of physical force to prevent the inspector leaving. The defendant's case was that his managing clerk was justified in his attitude, his sole anxiety being to prevent a removal of the cards, for which his employer was responsible. Evidence was given by the cashier to the effect that he stamped the cards quarterly, and that he had so informed the lady inspector, it being further pointed out that the defendant had been practising for thirty years and contributing for eighteen years, and had never been behind at the period of currency. Mr. Lovell Dunstan (chairman) stated that the case against the managing clerk would be dismissed, and that although Mr. Peck's reputation would have cleared him in the ordinary way, he should have taken the inspector's warning in the first place. Being technically in the wrong he would be fined 10s. in each of the eight cases of non-payment, and 20s. for each case of obstruction—a total of £6 and 4s. costs.

BAD WEATHER AND UNEMPLOYMENT.

The inter-relation of the above was recently considered at Ipswich on a charge of obtaining benefit by false representations contrary to the Unemployment Insurance Act, 1920, s. 22 (1). The case for the Ministry was that the defendant had signed a receipt for 30s., one of the days included being the 31st January, but a foreman stevedore of the Ipswich Dock Commission stated that the defendant was employed as a dock labourer from the 30th January to the 1st February, and received 10s. a day. The men were advised to sign on when it was raining, but to cancel their signatures if the weather cleared and they were able to unload a ship. The defendant had afterwards admitted that he was employed on the 31st January, his explanation being that he had subsequently asked for his signature to be cancelled. The defendant's evidence was that he was working until the 5th February, when he notified the counter clerk that he had worked the previous Thursday, and that his signature for that day should be cancelled. On 15th February he received six days' benefit, but made no remark as last year he had received a day too much pay, which was deducted the following week. It was pointed out for the prosecution that the defendant had been supplied with a form giving particulars of the insurance, and that payment was never made in advance. The mayor, Dr. J. F. C. Hossack, stated after a retirement that there was a doubt, and that the defendant would receive the benefit. It was, however, the duty of the public immediately to draw the counter clerk's attention to the matter, if they received too much money.

Legal Parables.

XXXVI.

The Solicitor who simply couldn't agree.

Mr. Belliquose was a solicitor who believed in standing up to the court and in fighting his cases; it was not a bit of good approaching him with suggestions of compromise, adjournment or compensation, and he was aggressively proud of it, though it didn't make him popular.

So, of course, when Mr. Breezy, a barrister with a pleasant manner and a big practice, asked him to agree to the adjournment of a small police court case so that he might attend to a case in the High Court, Mr. Belliquose bristled all over and said that the way some members of the bar accepted work they could not hope to attend to was a positive scandal. "For my part," he added gratuitously, "I regard it as a matter of conscience to do my work in such a way that I never ask anyone for favours, and I satisfy myself with just half a day's leisure in the week. My Saturday afternoons I claim as my invariable reward for a week's labours, and decline to break my rule for anyone. Apart from that, my time is my client's, and I do not attempt, as some people seem to do, to make money by taking on what I cannot accomplish properly. I simply cannot agree to your suggestion."

"All right," rejoined Mr. Breezy. "That's a very nice song and dance of yours; but if it's all over, may I ask if it means, done into plain English, that you'll see me hanged before you oblige me? Righto! I'll return the brief. And thank you so much for being so jolly and all that!"

When the case came on before the stipendiary magistrate (who, by the way, was a member of the same club as Mr. Breezy), Mr. Belliquose opened it as a simple case under a well-known bye-law.

"Do you produce a copy of the bye-law?" inquired the magistrate.

"Certainly," answered the worthy advocate, handing it in.

"Come, come! Mr. Belliquose," said the magistrate. "This isn't a sealed copy. You know better than this, you know."

"Your worship will surely not take such a technical point against me," urged Mr. Belliquose, a little less truculent than usual by now. "I happen to know that the defendant was in the hands of learned counsel who is most unfortunately prevented from being here to-day, and that learned counsel had no intention of taking such a point. I ask your worship not to insist."

"My duty to an unrepresented defendant is clear," replied the magistrate firmly. "And what you happen to know is hardly to the point. Nor," he added with what the crestfallen solicitor thought very like a smile, "is anything I happen to know. This case will be adjourned till Saturday next at three o'clock. Yes, I said Saturday, and I mean Saturday!"

Moral: Don't be disagreeable.

POINTS IN PRACTICE.

Questions from Registered Annual Subscribers only are answered, and without charge, on the understanding that neither the Proprietors nor the Editor, nor any member of the Staff, is responsible for the correctness of the replies given or for any steps taken in consequence thereof. All questions must be typewritten (in duplicate), addressed to The Assistant Editor, 29, Breams Buildings, E.C.4, and contain the name and address of the Subscriber. In matters of urgency answers will be forwarded by post if a stamped addressed envelope is enclosed.

HUSBAND AND WIFE—NEGLECT TO MAINTAIN—TIME LIMIT—AGREEMENT—WHETHER A BAR TO ORDER.

1664. *Q.* An application is being made against a husband by his wife on the grounds of his wilful neglect to maintain her. The parties separated by mutual agreement on the 5th of January, 1928, and the husband signed a document agreeing to pay 15s. weekly maintenance for the two children of the marriage, the wife indicating that she did not want her husband's money as he had left her the whole of the furniture in the house and she was to have the proceeds of letting two of the rooms. This payment has continued down to the present time. The wife recently issued a summons for desertion, which was dismissed. The application is issued under the Summary Jurisdiction Act of 1895, which has been amended by the Act of 1925, but only to the extent that the wife need not leave her husband for persistent cruelty or wilful neglect to maintain before taking proceedings. The cruelty and neglect need not be sufficient to cause the wife to leave and live separate and apart to ground an order. The procedure is covered by the two Acts of 1848 and 1895, and in the case of persistent cruelty, although amended by the Act of 1925, s. 11 of the Summary Jurisdiction Act, 1848, is still in force, and the six months' limit thereunder is effective. It would appear that the six months' limit, in the case of wilful neglect to maintain, is equally effective under s. 11 of the Act of 1848, as in neither case has this process as to time limit been overruled or amended by the Act of 1925. There appears to be no authority on the point as to whether there is a time limit in the case of wilful neglect to maintain, and it is a question of how far the decision in *Nicholson* v. *Nicholson* [1917], P. 21 ; 81 J.P. 31, is effective, in the case of voluntary separation, in view of the new Act of 1925. It is contended on behalf of the client on the authority of *Price* v. *Price* [1927], 43 T.L.R. 609, that there is no time limit while the neglect to maintain continues, but that such time limit runs from the "cessation of neglect to maintain," which, I submit, is absurd. I should be glad to have your views on the question of a time limit, and also on the effect of a voluntary separation.

A. The time limit imposed by s. 11 of the Summary Jurisdiction Act, 1848, is incorporated by s. 8 of the Act of 1895. Accordingly, if the wilful neglect to provide reasonable maintenance for the wife and her infant children ceased more than six months before the "complaint" was laid before the justice, the time limit applies. On the other hand, if there was this neglect to maintain within that period, the application is in time, and proof may be given also of neglect to maintain more than six months beforehand, and the offence is nicknamed a "continuing offence": *Price* v. *Price*, 43 T.L.R. 609; *Ellis* v. *Ellis* [1896], P. 251 ; *Heard* v. *Heard*, *id.* 188 ; *Dutch* v. *Dutch*, 45 T.L.R. 33.

As regards the agreement, it is not quite clear whether it included an undertaking that the wife should not take proceedings before the justices. Even if it did, it might be contended that no private agreement can prejudice the justices' powers, and the judgment of one of the law lords in *Hyman* v. *Hyman*, 45 T.L.R. 444, quoted in support. The last important case in which the effect of a separation deed upon an application for a maintenance order for neglect to maintain was considered, is *Diggins* v. *Diggins*, 43 T.L.R. 37, where it was held that the deed did not exclude the proceedings.

If, having regard to the means both of husband and wife, the court considers 15s. a week to be reasonable maintenance, then as that amount has been paid by the husband down to the present time, the wife will fail to prove the neglect to provide reasonable maintenance that she alleges.

Private Street Works Act, 1892.

Q. 1665. A is the owner of a dwelling-house with a frontage on a private road. She is under no obligation to the owner of the private road to make it up. She has just received notice from the local authority of their intention to carry out private street works under the Private Street Works Act, 1892, and provisional assessment for making up, sewering, draining, etc., has been apportioned according to frontage, and her liability has been assessed at £200. Can A recover this sum from the owner of the private road? If so, how should she set about it? Being the owner of the house we presume she cannot object to the assessment under s. 7 on the grounds that the road is not hers.

A. Provided the "private road" is a "street" within the meaning of the Act, it would appear that the only step which A can take as a frontager, is to object to the execution of the work on one of the grounds referred to in Mr. Macmorran's article on "Private Street Works" which appeared in the SOLICITORS' JOURNAL, on 30th April, 1927, 71 SOL. J. 337. In our opinion, A has no remedy against the owner of the private road, nor can she object to the assessment on the ground that the road is not hers. If, however, the objection to the assessment is disallowed her only remedy then is to appeal to the Ministry of Health, and in the meantime it would be quite as well to send to the Ministry of Health a copy of any notice of objection she may serve on the local authority. If the proposed new street incorporates an old footpath or lane, A can, of course, object to being assessed with the cost of any works on the site thereof, in which case an application should be made to the justices to have the plans and specification amended accordingly. If the private road has very few houses fronting it, it is open to A to object on the grounds that the works are unreasonable.

Local Government—COMPULSORY ACQUISITION OF LAND—POWER OF CORPORATION TO ACQUIRE "PART ONLY" OF SCHEDULED PROPERTY.

Q. 1666. A corporation served notice on B that they intended to apply to Parliament for an Act to acquire land for sewerage, street and improvement purposes (which included part of B's land). The Act of Parliament was duly granted, but no notice to treat has been served on B, although it is understood that this property will eventually be required and acquired by A the corporation. The position, however, is this, that the corporation only require a small part of B's properties, which is workshops and saleshops, and this would necessitate the dividing and breaking up of the property. Your opinion is therefore desired on: (1) is B, seeing that no notice to treat and notice of the Act of Parliament merely has been served, entitled to sell to a purchaser the said property? (2) Can A, the corporation, take only a small portion of the property which they desire or must they take the whole of the property? (3) Would the fact that this is a Local Act of Parliament registered in the local registry have the effect of being an incumbrance under the Land Charges Act, 1925?

A. (1) Until notice to treat has been served, the owner is free to deal with the property in any way. (2) The corporation can only take a part of the property scheduled, if the Act of

Parliament authorising its acquisition gives it specific power to do so. In the absence of any such power, the owner may make an agreement with the corporation or, on the other hand, compel the latter to acquire the whole. (3) The answer to this is in the negative, but once a formal notice to treat has been served neither party can get rid of the obligation to buy and sell: *Metropolitan Railway* v. *Woodhouse*, 13 W.R. 516. On the other hand, the owner would appear to be entitled to sell the property after service of the notice to treat provided he does not "create any new interest to the prejudice of the local authority" and sells "subject to the notice and the rights created thereby": *Sewell* v. *Harlow and Uxbridge Railway Co.* [1903] T.L.R. 130.

Income Tax on Annuity.

Q. 1667. A transfers to trustees of his daughter's marriage settlement shares in a certain company. The trustees of the settlement are directed to pay to the daughter out of the income from these shares an annuity, and no mention is made as to whether the annuity is to be paid free of income tax or not. Should the trustees before paying the daughter's annuity deduct income tax thereon, or should they pay to the daughter free of tax, and if so, would the daughter have to include it with her other income for the purpose of assessment and pay income tax thereon, bearing in mind that income tax has already once been deducted by the Company when paying the dividend to the Trustees?

A. The trustees are entitled to pay the annuity (which is derived from taxed sources) less tax at the rate in force for the period during which the payment has accrued. In the absence of any provision, the annuity will not be paid free of tax; the payment will simply be the gross amount of the annuity as provided by the settlement, less the appropriate income tax.

Income Tax Liability.

Q. 1668. A, who was one of six tenants for life under a number of like settlements, died on the 27th December, 1925, leaving a son, B. Part of the settled funds consisted of a sum of 5 per cent. War Stock, 1929/47, producing £1,800 per annum approximately. B, who had become absolutely entitled to a one-sixth share in the stock upon his mother's death, subject to payment of estate duty and costs, did not call for his share in the stock until August, 1926, by reason of his having settled his share, and the settlement not being complete. The interest received by the trustees of the settlements on the 1st of June, 1926, was paid into a special account in their names at a bank, and some days later, at B's request, was paid to him. The trustees of the settlements did not deduct tax when making the payment. The trustees returned the sum of £1,500 as received by them for 1926-27, whereas they should have returned the sum received in the previous year (£1,800). Actually in 1926-27, they received £1,650, that is, five-sixths of the total income, plus the half-yearly payment mentioned, received on the 1st June, 1926. The other £150 arising from this stock was naturally received by B direct on the 1st December, 1926. H.M. Inspector informs me that he cannot give the trustees of the settlements credit for the tax on the two sums of £150 received by B, though he stated that B has been charged and has paid tax on both these sums. I have pointed out to the inspector that the stock during the year of assessment belonged to B, notwithstanding that during the greater part of that time it remained vested in the trustees of the settlements, and that as the trustees and B were at liberty to make such arrangements as they liked with regard to the transfer, and in fact might have held over the transfer indefinitely. In respect of any income, whether actual or notional, upon which tax has been recovered during the year 1926-27, if the same has been recovered from B, the same must be deemed to have been paid by the trustees of the settlements, and the converse, that is, so long as the stock remained vested in the trustees, they were merely agents for B to receive payments of interest. The trustees have already paid tax on the sum of £1,500. No notice of assessment has yet been received by the trustees in respect of tax on the additional £300, but this will be served upon them shortly. Will you please advise me (*a*) if I am right in my contention, and (*b*) if not, is B liable for this additional assessment, or is it payable out of income divisible among the five remaining life tenants?

A. It is thought that the inspector is correct in his contention and that the ownership of the stock was in the trustees until August, 1926, and that (*b*) the tax should be paid out of the trust income. If B has paid the tax it is probably too late for him to appeal. It would seem that the cause of the trouble is the failure of the trustees to deduct tax on payment. It is suggested that a letter to the Secretary (Taxes) Somerset House, W.C.2, might result in the matter being left as it is.

Remittances out of Income.

Q. 1669. An American citizen domiciled in America has purchased the lease of a house in this country where he resides some two or three months in each financial year. In order to effect the purchase he paid a fairly substantial premium, and he also paid a sum of money to a builder for some structural alterations and improvements. He is a wealthy man and has sums remitted from America from time to time, or, alternatively he draws sums from a large world's letter of credit with which he travels. Although he regards his premium and builder's account as a capital expenditure he is not able definitely to say that in fact he realised capital in America expressly to make the payment. Assuming, as we take it to be the case, that he is liable for English income tax on the amount remitted to this country, is he entitled to distinguish between what he regards as capital payment and the remainder of his expenditure, or must he pay tax on the total sum?

A. The liability to British income tax is in respect of *income* remitted to this country or brought here by the taxpayer. To attract liability such remittances, etc., must be income of the year for which the assessment is made. The question as to whether such remittances are out of the income of the year or out of capital (whether or not accumulated from income of previous years) is one of fact, the final determination of which is with the commissioners. The distinction between what the taxpayer regards as capital payment and revenue expenditure does not arise. The question is what is the *source* of the remittances, not to what purpose they are applied.

Realty in Ireland—Undivided Share—Death Duties and Expenses.

Q. 1670. J.M. died December, 1928, domiciled in England, possessed of English personal estate and an undivided share in real property in Dublin. His will was proved in London by his executors. The testator gave certain pecuniary legacies which will have to abate as his English personal estate is insufficient. He gave his undivided share in the Dublin property to three persons absolutely, some of whom are already possessed of other undivided shares in the same property. The will contained no provision for payment of death or succession duties on the Dublin property. As the testator had no personal property in Southern Ireland it is not proposed to prove the will in Dublin. Estate and succession duties will, however, have to be paid on the Dublin property. Will the devisees of the testator's undivided share in that property have to bear—

(1) The expense of the executors' assent to the vesting?

(2) The cost of a valuation of the property for the purpose of the assessment of duties?

(3) The expense of preparing and passing the duty accounts in respect of the property? and

(4) The estate and succession duties when assessed?

Reference to authorities on the points will oblige.

A. The answers to the various points put are as follows :—

(1) As this is immoveable property in the Irish Free State, Irish law is applicable to it, and possibly no assent is required there. If it is necessary, in my opinion the expense must be borne by the devisee, because the property does not pass to the British executor as such, and consequently the expense is not a "testamentary expense." See *Re Scull* [1917], 118 L.T. 7, C.A. This case dealt with a country which is no part of the British Empire, and it is a possible view that it would not be applicable to estate situate in a British possession because of s. 20 (2) Finance Act, 1894. But even if the case is inapplicable, it is not necessary to rely solely upon it in support of my opinion, because real property, even in England, does not pass to the executor as such, and by English law an undivided share in land devolves as realty, notwithstanding the provisions in the Law of Property Act, 1925, making such land held upon statutory trusts for sale. See *Re Wheeler* [1928], W.N. 225, and p. 552, SOL. J., 18th August, 1928.

(2) I consider the expense must be borne by the devisee. No duty is payable here on immoveable property abroad, and if any is payable in the Irish Free State the English executors are not liable for it, nor consequently for any valuation.

(3) The same applies.

(4) For the reasons given above, the devisee is liable. The only qualification called for is that if the share arises under an English disposition, or the land is the subject of a "British settlement," British duties may be payable. In that case it will be necessary to further consider the position. See *Re Smyth* [1898], 1 Ch. 89, and *Attorney-General* v. *Johnson* [1907], 2 K.B. 885.

Legacies to Children Domiciled in England—TESTATOR DOMICILED IN SCOTLAND.

Q. 1671. I have been consulted on behalf of the father of two infants domiciled in England. Under the will of a gentleman domiciled in Scotland, which will has been proved by Scottish executors in the Scottish court, these infants are immediately entitled to a legacy of £100 each. Under the laws of the country of the infants' domicile (England) the legacies cannot be paid until the legatees attain their majorities; but under the laws of the country of the testator's domicile, and under which probate has been granted (Scotland), a valid discharge to the executors can be given by the father who is the infants' "tutor" according to Scots law, and the legacies can be paid to him for the benefit of the legatees. This has been done with regard to legacies to children under twelve years of age domiciled in Scotland. Please advise as to whether you consider the question of payment, or otherwise, is governed by the laws of the country of the testator's domicile and probate, or by the laws of the country of the infants' domicile, giving authorities. Could the father of the children domiciled in England insist on the legacies to his two children both under twelve years of age, being paid to him as their tutor, and give the Scottish executors a valid discharge as if he and his children had been domiciled in Scotland?

A. It is extremely doubtful whether, in view of the authorities mentioned below Scots executors would feel warranted in paying to the father of the pupil children the legacies to which they are entitled unless he established that he had been appointed their legal guardian. In *Seddon, Petitioner* [1891], 19 Raltic 101, a father, domiciled in England, presented a petition to the Court of Session for himself and his two pupil children, asking the court to order Scottish testamentary trustees, who were in possession of a fund belonging to the children, to pay to him (the father) for their benefit the whole or a part of the annual income of the fund. The trustees concurred in the application, but the court refused it, intimating, however, that they would be prepared to reconsider the application on being informed by the petitioner that steps were being taken to have the children provided with a legal guardian. It is true that in the later case of *Webb* v. *Cleland's Trustees* [1904], 6 Fraser, 274, where the father had applied to the English court to be appointed guardian but that application was refused unless an undertaking was given that the money would be paid into the English court, the Court of Session authorised the trustees to pay the income to the father for the benefit of his pupil child for five years.

Reviews.

Lord Chief Baron Pollock: A memoir by his grandson, Lord HANWORTH, P.C., K.B.E. London: John Murray. 10s. 6d. net. (Reviewed by Professor J. H. MORGAN, K.C.)

This is a charming book. It enticed the writer of this article, once he had opened it, into staying on in his chambers, long after his clerks had gone their homeward ways, until he had read the last page of it. It has, indeed, one fault, but a fault so rare in literary executors as to be almost a virtue. It is too short. Of this deficiency more in a moment. But the author might plead, as indeed he does, that the book was never intended to be "a complete biography." It was composed originally as a kind of memorial to his only son, a very gallant gentleman who was killed in action in 1918, when carrying his wounded batman on his back out of the zone of battle. As such, it was designed for the boy whom the young soldier left behind him, heir to a great family tradition. In now giving it to the world at large, Lord Hanworth has enriched the literature, already opulent, of legal biography.

Lord Hanworth has, wisely we think, deliberately avoided what Lord Rosebery once called the "bib and porringer" type of biography. He disposes of his hero's childhood in a few pages, content with a pretty episode or two authenticating the strong character, allied to a virile intellect, of the man who, going up to Cambridge as the son of a saddler, "with nothing but hope to live upon," achieved, with a kind of negligent ease, the distinction of Senior Wrangler, Smith's Prizeman and Fellow of Trinity, ran a neck and neck race with Brougham for the leadership of the Northern Circuit, and, after being twice Attorney-General, was raised to the Bench as Lord Chief Baron of the historic Court of Exchequer, amid the acclamations of his contemporaries. His strong-willed disposition made itself manifest when, as a boy, he rebelled against his headmaster and came home to tell his parents that he had no further use for the school. The infuriated "head," finding the parents acquiescent, informed them that their boy would certainly "live to be hanged." When the truant rose to high eminence, the pedagogue made a virtue of consistency by reminding his mother "I always said that boy would fill an elevated situation."

The Lord Chief Baron's conjugal achievements were surely not less remarkable than his forensic triumphs. They remind us of those patriarchs of the Old Testament to whom the Divine Voice whispered "I will multiply thy seed," nay "I will set it up." He begat twenty-four children of whom all but four survived him and multiplied in turn. The divine dispensation set them, and their marital connections, up in the high places of the law as though it were their birthright. On the fruitful vine which Lord Hanworth displays, in an appendix, in the form of a "family tree," we find two Barons of the Exchequer, a Master of the Rolls, a Lord Justice, a Master of the Supreme Court, a King's Remembrancer, an Official Referee, an Admiralty Judge of the Cinque Ports and a cluster of K.C.'s. Surely never has there been such a legal dynasty in the history of our law. In the evening of his days the Lord Chief Baron had eighty-one descendants living to rise up and call him blessed. "I hope I am thankful," he wrote to a daughter in one of his many charming letters, "for the largest family of the best children I know anywhere," and he seems to have known and loved them all, even unto the third generation. Many a time he would snatch a moment in court, whether as counsel or as judge, to write to them with that "disengagement" which is the secret of all good letters, even

as it is of all good conversation. He was, indeed, a born letter-writer and one of his letters to Lord Bramwell is just such a letter as those with which his eldest grandson, the Sir Frederick Pollock of our own time, *il maestro di color' che sanno*, delights his friends, displaying a kind of technical wit, learned without being pedantic, playful without being puerile.

What manner of man then was this? The beautiful portrait at the beginning of the book is stamped with the hall-mark of distinction. It is the authentic "Pollock face," to use Lord Hanworth's own expression. To me it is almost startingly reminiscent of my holidays as a schoolboy, when I used to haunt the gallery of the Cardiff Assizes, thence to see, on one occasion, one of the most graceful and dignified figures that ever adorned the Bench—Sir Charles Pollock to wit—"the last of the Barons," son of the Lord Chief Baron. The long, exquisitely chiselled face, the firm, well-moulded chin, the delicate hands of the son are all here in the portrait of his illustrious father. Lord Hanworth traces the striking family features to the lady, Sarah Parsons, who, to the annoyance of her high-bred family, insisted on marrying a homely-looking saddler and gave birth not only to the future Lord Chief Baron, but to another son who achieved the baton of a Field Marshal, and yet a third who became Chief Justice of the Supreme Court of Bombay. After all, it is better to die in ermine than to be born in the purple.

This distinction of bearing found its complement in distinction of mind and character. One of the Lord Chief Baron's many admiring contemporaries described him as a man "whose heart and head seemed to go *pari passu*," and the description was evidently exact. Extraordinarily versatile, he was saved from being a *dilettante* by a perfect control of vagrant impulses, and even when he indulged them he was never at a loss. Rising at five o'clock to read a brief, when on the Northern Circuit, he got so immersed in one of Scott's novels that he forgot all about his brief and with it some 200 letters that had passed between the parties. With the utmost assurance he proceeded to study his neglected brief in court by reading the whole of the correspondence to the jury, with the insinuating intimation that he could not better present the facts to them than by reading the language of the parties themselves. After an hour or so of the recital, Chief Justice Abbott mildly intervened by asking whether it was "necessary to read all this correspondence." "Absolutely necessary, my lord," replied the imperturbable Pollock, "for I have never read it before."

Lord Hanworth has given us all too little of the judgments which distinguished the twenty-two years of the Lord Chief Baron's tenure of office. In a book designed for the lay public this was perhaps inevitable, but there is one extract from his summing up in the *cause celebre* of *Reg.* v. *Kohl*, a murder case, which represents the best exposition to a jury of what is meant by "circumstantial evidence"—"inductive testimony" as he termed it—that we have ever read. Equally admirable is the extract from his dissenting judgment in *Hall* v. *Wright* as to the conditions implied in a contract to marry. Both reveal a grace of diction and a lucidity of thought worthy of Bowen at his best. But we should have liked to hear more of his judgments in administering the jurisdiction of a court so honourably distinguished by its latitude in giving relief, especially on its equitable side, to the subject against the Crown. It had frequently given declarations against the Crown, as represented by the Attorney-General, as the law officers learnt to their cost in the famous *Dyson Case* in 1911. Just a century and a half before the subject of this Memoir became its Lord Chief Baron, it had delivered a judgment in the famous *Bankers' Case* which, had it not been reversed by Lord Somers, would have given the subject that short cut to the courts for which everyone is now crying out. When Pollock ascended to it, its equitable jurisdiction had already been transferred by statute to the Court of Chancery, but he was never insensible to its high function, and in a case, not mentioned in Lord Hanworth's pages, *Attorney-General* v. *Halling*, he reminded the Crown that his court had an almost immemorial claim to furnish parties with "such summary means of asserting their rights against the Crown" as were "almost without limit," were "peculiar" to it, and "wholly dissimilar" from those of any other court. He had, indeed, not only an appetite for law, but a passion for justice. Nothing better illustrates it than a letter to his wife, written on circuit, in which he tells her of his "rebellion" against the custom of inflicting heavy sentences of penal servitude on unhappy postmen for larceny. On a conviction in such a case he put the prisoner back for enquiries. "I found," he wrote, "that the prisoner had been eighteen years in the service of the Post Office, and having a wife and children (seven powerful arguments with me) and being also in great distress with only a pound a week for eight people and twenty miles to walk every day, he had yielded to temptation." How few judges of that time, now seventy years since, would have shown so merciful a temper! In the same spirit he writes, after being "charmed" with the "charity" he finds in Wesley's sermons: "There is a great and very general mistake made that crimes, offences which the law punishes, are worse than mere sins which the law does not, and cannot, punish." And he will have none of it. For him it is a question, to quote the words of Mansfield in quite another connection, "of *how the heart stood*."

But to distil the charm and wisdom of this book and its subject is beyond the limits of my space. Every aspirant to the Bar should read it for himself and learn what a younger generation seems to be forgetting, namely, that there were giants in those Victorian days. It is not enough, in our bidding prayers, to praise great men and the fathers that begat us. It remains to imitate them. The story of a life so rich in human affection, so heroic in human toil, is one to fortify the soul. The Lord Chief Baron reigned in the Court of Exchequer till the age of eighty-three, his eyes not dim nor his natural force abated. At the age of seventy-seven he could say, as Gladstone said in another connection, that he had sat eleven hours in court "without any fatigue." Not till seventy did he begin to "rise late" by getting out of bed at 5 a.m. What was the peculiar secret of the men of that heroic age? Was it not that, in the words of Pericles, "they knew their duty and had the courage to do it"?

J. H. M.

Trout Fishing from all Angles. By ERIC TAVERNER; a Chapter on Trout Scales by G. HERBERT NALL, M.A., F.R.M.S., and "The Legal Aspect of Fishing," by ALBAN BACON, Barrister-at-law. pp. 448 (with Indices). The Lonsdale Library of Sports, Games and Pastimes. 1929. London: Seeley Service & Co., Ltd., 196 Shaftesbury-avenue. 21s. net.

The Earl of Lonsdale, in his introduction to this volume of the library so appropriately called after him, says that it is a long time since a library of volumes on sports and games was put before the public and that during the interval many new discoveries and methods have been successfully exploited. This alone appears a sufficient reason for the publication of this work, the avowed object of which is to bridge a gap and to provide in one comprehensive volume all that the beginner can require, at the same time giving to the expert a fair survey of all modern methods and aspects.

The sponsors of this library have been fortunate in securing the services of Mr. Taverner for the task of preparing the volume on trout fishing, as he has not merely succeeded in collecting into one volume most of the information provided by the leading modern authorities on the subject, but, being in the forefront of such authorities himself, has cemented the whole with the best he himself can provide.

It was perhaps not unnatural for the reviewer to turn in the first place to the chapter entitled "The Legal Aspect of

Trout Fishing." Here Captain Bacon gives a very fair and not too technical survey of the general law relating to fishing rights, and suggests the principal points that should be looked to in a fishing lease. Although this chapter does not occupy more than a dozen pages, it is full of valuable information, and to the layman fisherman should provide a view-point rarely, if ever, considered in his ordinary literature. Turning to the other angles presented by Mr. Taverner, no fisherman can fail to appreciate the very interesting survey of fishing literature contained in the first two chapters, and, in particular, the excellent bibliography given at the end of the second chapter. The science of casting is most instructively discussed, and many thoroughly experienced anglers will find something new in the pages allotted to this branch of their art. "Rise-forms" are discussed more fully than has ever been previously attempted, and both novice and expert alike should prove grateful for the theories set forth in this volume. Mr. Nall's chapter on "Trout Scales," though, perhaps, rather outside the scope of the ordinary fisherman's view-point, is extremely interesting and will no doubt stimulate in many anglers an interest in the actual fish taken by them, and perhaps relieve some of their fellows of the tedium of hearing so much about those which were lost.

Though naturally the fly fisherman's angle is the one most considered in this volume, that of the bait fisherman is by no means neglected, and practically every type of stream and water capable of holding trout comes under discussion—and every angle is amply and often beautifully illustrated.

One can honestly say that no fisherman should fail to obtain a copy, and most general libraries would benefit by its acquisition.

Adulteration of Food, being the Statutes, Cases and Regulations, including the Food and Drugs (Adulteration) Act, 1928. By Douglas C. Bartley, of the Inner Temple, Barrister-at-Law. Fourth edition. London: Stevens & Sons, Ltd. 12s. 6d. net.

The last edition of this work was published in 1907. Since that date great changes have been effected in the law relating to food and drugs. These changes culminated in the passing of the consolidating statute known as the Food and Drugs (Adulteration) Act, 1928, which codified and re-arranged in intelligible form the provisions of the Sale of Food and Drugs Acts, 1875, 1879, 1899 and 1927, the Margarine Act, 1887, and the Butter and Margarine Act, 1907. The author, wisely we think, in preparing the present edition of his work, has confined himself to the subject-matter of the adulteration of *human* foods and medicaments, leaving out of consideration the statutes generally mixed up with the subject of adulteration such as seeds and fertilisers, which are really better dealt with apart from the other. One great advantage of this is that it has enabled the author to deal fully and effectively with the innumerable orders and regulations relating to the use of preservatives and the importation of foodstuffs issued during recent years without adding unduly to the size of the volume. The work has been brought well up to date, and the author appears to us to have succeeded in bringing together all the important decisions of the courts. His notes and comments are carefully and accurately written.

Books Received.

John Williams of Gloddaeth. Lord Keeper of the Great Seal of England; Dean of Westminster; Lord Bishop of Lincoln; Lord Archibishop of York; and Bencher of the Ancient Honourable Society of Gray's Inn. By His Honour Judge Ivor Bowen, K.C. Illustrated. 1929. Medium 8vo. pp. 91. The Honourable Society of Cymmrodorion, New Stone-buildings, Chancery-lane.

National University Law Library. Vol. IX, No. 2. May, 1929. National University Law School. Washington, D.C. 75c. per number.

House of Commons, 1929. With full results of the Polling, Biographies of Members and Unsuccessful Candidates, and a complete Analysis and Statistical Tables. Royal 8vo. 160 pp. Cloth boards. The Times Office, Printing House-square, E.C.4. 2s. 6d. net.

Glen's Local Government Act, 1929, including the Agricultural Rates Act, 1929. Randolph A. Glen, M.A., LL.B. (Cantab.), editor of "Glen's Public Health." Fourteenth edition, 1925, etc. Medium 8vo. pp. xxii and (with Index) 400. 1929. Eyre & Spottiswoode (Publishers) Ltd., 6, Great New-street, E.C.4. 20s. net.

Evasion in Taxation. A. Victor Tranter, Ph.D., B.Sc. (Econ.). Crown 8vo. pp. x and 197. Cloth boards. 1929. London: George Routledge & Sons, Ltd. 6s. net.

Stock Exchange Investments for Non-Residents (Free of British Income Tax). June, 1929. 15 pp. London: F. C. Mathieson & Sons. 6d. net.

The Law of The Amateur Stage. A Handbook on the Law relating to the Entertainments Duty, the Licensing of Theatres and Stage Plays, the Law of Copyright, Sunday Performances, the Employment of Children in Theatres, Insurances and matters relating generally to the Law as it affects the Amateur Stage. Dudley Stuart Page, Solicitor, President National Operatic and Dramatic Association. Crown 8vo. pp. vii and (with Index) 120. 1929. London: Sir Isaac Pitman & Sons, Ltd. 5s. net.

Recent Changes in Company Law and Accounts. W. Barrie Abbott, B.L., C.A., Lecturer in Secretarial Practice at Edinburgh University. Large crown 8vo. pp. viii and 39. Edinburgh: William Blackwood & Sons, Ltd. 5s. net.

Law for Printers and Publishers. B. Mackay Cloutman, V.C., B.A., Barrister-at-Law, and Francis W. Luck, Solicitor to the Federation of Master Printers, etc. of Great Britain and Ireland. With a Foreword by E. G. Arnold, LL.D., Past President of the Federation of Master Printers. Large crown 8vo. pp. xxiv and (with Index) 412. 1929. London: John Bale, Sons & Danielson, Ltd. 17s. 6d. net.

Law Relating to Medical, Dental and Veterinary Practice. Fred Bullock, LL.D., Barrister-at-Law, F.C.I.S. Thesis approved for the Degree of Doctor of Laws in the University of London. Demy 8vo. pp. xvi and (with Index) 317. 1929. London: Ballière, Tindall & Cox; Stevens & Sons, Ltd. 12s. 6d. net.

Notes of Cases.

Court of Appeal.

Inland Revenue Commissioners *v.* **Dalgety & Co. Limited.**

Lord Hanworth, M.R., Lawrence, and Sankey, L.JJ.

6th and 7th May, 6th June.

Revenue—Income Tax—Dominion Income Tax—Relief—Whether on Total Income of Company or on Income less Debenture Interest—Finance Act, 1916 (6 & 7 Geo. 5, c. 24), s. 43—Income Tax Act, 1918 (8 & 9 Geo. 5, c. 40), s. 55—Finance Act, 1920 (10 & 11 Geo. 5, c. 18), s. 27.

Appeal from a decision of Rowlatt, J.

Dalgety and Co., Limited, claimed relief in respect of Colonial or Dominion income-tax under s. 43 of the Finance Act, 1916, and s. 55 of the Income Tax Acts, 1918, for the years ended 5th April, 1917, 1918, 1919 and 1920; and under s. 27 of the Finance Act, 1920, for the years ended 5th April, 1921, 1922, 1923 and 1924. The company was incorporated in England with an authorised capital during the years in question of £4,000,000. The company had also issued debentures and debenture stocks to an amount of approximately £2,500,000, the principal

and interest being secured on the whole undertaking and assets of the company. The business of the company was that of general merchants, shipping and insurance agents and bankers. Apart from dividends which were taxed by deduction and income from property charged to income-tax under sched. A, practically the whole of the company's income arose from trading profits earned in Australia and New Zealand, but as the control of the company was exercised in England, those trading profits were all assessed to British income-tax under Case I of sched. D. Dominion income-tax had also been paid on such trading profits arising in Australia and New Zealand. The question was whether the amount on which relief due to the company was to be calculated was the whole amount of the profits earned by it in Australia and New Zealand or only the balance of such profits remaining after deducting therefrom the excess of the interest paid by it on its debentures over the amount of income arising in the United Kingdom. It was agreed that the debenture interest should be regarded as paid out of income arising in the United Kingdom so far as there was such income available. The balance of the interest was paid out of the trading profits. In computing the profits for assessment under Case I of sched. D, no deduction was allowed in respect of debenture interest. In paying such interest the company deducted the full rate of United Kingdom income-tax. The Special Commissioners decided that the company were entitled to relief in respect of their whole income, but Rowlatt, J., reversed that finding and held that it could only be granted on the income less the debenture interest paid. The company appealed. Section 43 of the Finance Act, 1916, is as follows: "If any person who has paid, by deduction or otherwise, United Kingdom income-tax for the current income-tax year on any part of his income at a rate exceeding 3s. 6d. proves to the satisfaction of the Special Commissioners that he has also paid any Colonial income-tax in respect of the same part of his income he shall be entitled to repayment of a part of the United Kingdom income-tax paid by him equal to the difference between the amount so paid and the amount he would have paid if the tax had been charged at the rate of 3s. 6d. or if that difference exceeds the amount on that part of his income at the rate of the Colonial income-tax, equal to that amount." The court allowed the appeal.

Lord HANWORTH, M.R., said it had been suggested that the company in paying tax and deducting it from interest was acting as agent for the shareholders, but that view was negatived by *Inland Revenue Commissioners* v. *Blott* (65 SOL. J. 642; [1921] 2 A.C. 171), and there was clearly no agency. The tax deducted was the tax due from the person to whom the interest was paid, and no set-off, unless specially provided and indicated, could arise between the tax paid by the company and the tax payable by a wholly different taxpayer. Further, the provision for handing over the tax collected did not apply to the present case at all. It had also been suggested that "paid" in s. 43 could be read as "paid and borne," but it did not seem possible to alter the section in that way. The decision of the Special Commissioners must therefore be restored.

COUNSEL: *Latter*, K.C., and *Bremner*, for appellants; *Sir Thomas Inskip*, K.C. (A.-G.) and *R. P. Hills*, for the Crown.

SOLICITORS: *Bircham & Co.; Solicitor of Inland Revenue.*

[Reported by G. T. WHITFIELD-HAYES, Esq., Barrister-at-Law.]

In re **Gates: Gates** *v.* **Cabell.** 7th June.

Lord Hanworth, M.R., Lawrence and Russell, L.JJ.

WILL—CONSTRUCTION—GIFT OF "ALL MY MONEY"—STRICT LEGAL MEANING OF "MONEY"—WHETHER ENLARGED BY CONTEXT.

Appeal from a decision of Clauson, J.

A testator made his will in the words "I leave all my money to Alfred George Cabell." Clauson, J., upon an originating summons, held that the gift passed cash in house or at current account in the bank and also stocks, shares and bonds; in fact, the whole estate, excepting only real estate and personal chattels (including furniture and jewellery). Cabell appealed, claiming, in addition, to be entitled to the furniture. One of the next-of-kin cross-appealed, claiming that Cabell only took the cash at the house and in the bank.

The court dismissed the appeal, but allowed the cross-appeal.

Lord HANWORTH, M.R., said that in *In re Taylor; Taylor* v. *Tweedie* (66 SOL. J. 693; [1923] 1 Ch. 99), the Court of Appeal had laid it down that, in Lord Sterndale's words, "The word 'money,' when used in a will, means money in its strict sense, unless there is a context which is sufficient to show that the testatrix used it in a more extended sense." In *Pritchard* v. *Pritchard*, 11 Eq., 232, was an illustration of such a context. There a testator directed the income of his "principal money" to be paid to his wife for the support of herself and the education of his children. His property amounted to about £40,000, and he left a wife and six children. His "money" in the strict sense was a sum of £239, a sum which would be quite useless for the support of a wife and six children. In *In re Emerson; Norill* v. *Nutty* [1929] 1 Ch. 128, a testatrix at her death left no cash at the bank and only about £2 17s., in the house. By a codicil she gave to an adopted niece "the residue of money at the time of my death." That was held to carry the residuary personal estate, but there the money in the strict sense was a sum which was negligible. In the present case there was no such context. The word "money" in its strict sense passed a considerable sum to Cabell, and the testator may well have wished to leave his other property to his next-of-kin.

COUNSEL: *Grant*, K.C., and *Byrne*, for the appellant; *Spens*, K.C., and *Harman* for the cross-appellant; *W. M. Hunt* for the administrators with will annexed.

SOLICITORS: *Bartlett & Gregory*, for *Bartlett & Sons*, Sherborne; *Reynold, Sons & Gorst.*

[Reported by G. T. WHITFIELD-HAYES, Esq., Barrister-at-Law.]

Probate, Divorce and Admiralty Division.

Prinsep *v.* **Prinsep.** Hill, J. 6th February and 26th March.

DIVORCE—PETITION FOR VARIATION OF SETTLEMENTS—MEANING OF "POST-NUPTIAL SETTLEMENT ON THE PARTIES"—DEFINITION OF COURT'S POWERS IN DEALING WITH SETTLEMENTS—DISREGARD OF CONTINGENT INTEREST—JUDICATURE (CONSOLIDATION) ACT, 1925, 15 & 16 GEO. 5, c. 49, s. 192.

This was a motion to confirm or vary the report of the registrar upon the wife's petition for variation of settlements. The parties were married on 8th August, 1912, and there was one child of the marriage, a daughter, born on the 26th May, 1913. The settlements sought to be varied were (1) an ante-nuptial settlement, dated 7th August, 1912, and (2) a post-nuptial settlement, dated 25th August, 1920, between them producing an annual income of about £6,300. No question arose as to the powers of the court to vary the 1912 settlement, the capital of which amounted to about £21,500. By a deed, dated 1st September, 1917, the respondent's mother covenanted to pay to the respondent £2,000 per annum, during the joint lives of herself and the respondent. This annuity was revoked by the 1920 settlement, and capital amounting to £86,500, producing an income of about £5,100 per annum, was settled in the absolute discretion of the trustees for the use, during the respondent's lifetime, of the respondent, the petitioner, their children or any future wife or children, two brothers of the respondent being given a contingent interest in remainder. The respondent and the representatives of the child of the marriage submitted for the approval of the court, a draft agreed order under which the petitioner and the child would have the income produced by a sum of £45,000, to be settled on a new trust, the balance of £62,000, to be transferred to the

respondent, who had remarried, free of trusts. The trustees of the 1920 settlement and the respondent's brothers opposed on the grounds that the court had no power to deal with the 1920 settlement, and that failing that objection the court ought not to hand over the balance of capital to the respondent to deal with absolutely. The registrar reported in favour of the draft order.

HILL, J., in the course of delivering a considered judgment, said that the main point at issue was whether the settlement of August, 1920, was a "post-nuptial settlement on the parties," within the meaning of s. 192 of the Judicature (Consolidation) Act, 1925. Was it upon the husband in the character of husband, or upon the wife in the character of wife, or upon both in characters of husband and wife? In any of those cases it was a settlement on the parties within the meaning of the section. The particular form did not matter. It might be a settlement in the strictest sense of the term, or a covenant to pay by one spouse to another, or by a third person to a spouse. What did matter was that it should provide for the financial benefit of one or other or both of the spouses as spouses and with reference to their married state. That was the result of the authorities.

The settlement of August, 1920, in terms designated Mr. Prinsep as the principal beneficiary, and it also had in contemplation his then wife, the petitioner, and any future wife, and his child, and any future children. The trustees were, however, given a very wide discretion. They could select as between Mr. Prinsep and his wife for the time being, who was at the time and, but for the decree absolute would still be his wife, and any children, and decide who was to have the income. But the trustees were as free to pay it all to the petitioner, or to a child, as to Mr. Prinsep. The trust was as much for the benefit of the petitioner in her character of wife as it was for Mr. Prinsep, and as much for the benefit of the child of the marriage as it was for the benefit of either of the parties. The dissolution of the marriage had made it impossible fully to carry out the settlement in the way which it contemplated, but the settlement was one made on the respondent and petitioner in the character of spouses and the case was governed by the decision of the President in the unreported case of *Janion* v. *Janion*, 1926. There, as in the present case, it was contended that a certain settlement was not a post-nuptial settlement within s. 192, "that the wife was not a party to the deed, that the trustee had an absolute unfettered discretion as to the disposition of the funds—and that the respondent had a power of revocation with the consent of the trustee," but the President overruling the registrar, varied the settlement. He (his Lordship) agreed with that decision and followed it. The fund in *Janion* v. *Janion*, came from the husband. In the present case it came from Mr. Prinsep's mother, though in a sense Mr. Prinsep contributed part of it, because, in consideration of the transfer to the trustees of the settled funds, he surrendered a covenant by his mother, dated 1st September, 1917, to pay him £2,000 per annum during the joint lives of herself and her son. But, whether a settlement was within s. 192, did not depend on who was the settlor, but on its effect. If in fact it was a settlement on either husband or wife or both in the character of husband or wife, it was wholly immaterial that it was prompted, or stated to be prompted, by affection for only one of them. The result of those considerations was that the court had power to vary not only the marriage settlement, but also the settlement of August, 1920. So far as the report and the scheme related to the petitioner and the child, he (his Lordship) had no doubt that it should be approved in all its details. The interest of Mr. Prinsep's brothers were too remote to allow it to hamper the court in making a proper provision for the petitioner and the child. There remained the more difficult question whether the balance of the funds under the two settlements, amounting to some £62,000 or £63,000 should be taken out of the trusts of the settlements and handed over to Mr. Prinsep. The main object of variation was to make proper provision for the injured spouse and the children of the marriage, and, *primâ facie*, settlements ought not to be interfered with further than was necessary for that purpose. But the court which had annulled the marriage must not only protect the injured party, but must also be fair to the wrong-doing party. Mr. Prinsep had given up the annuity of £2,000, which he would otherwise have enjoyed during his mother's life. Further, he had married again and was anxious to make a settlement on his present wife. The trustees took the view that Mr. Prinsep's mother made the settlement of August, 1920, to protect Mr. Prinsep from his own extravagance and to prevent the trust funds from being foolishly wasted. The proper course would be to release part only of the balance to Mr. Prinsep, and to re-settle the rest in such a way as the trustees might approve, so as to carry out the intentions of the original settlement, but on the basis that the petitioner and her child should no longer have any interest therein. Mr. Prinsep and the trustees should see what could be agreed.

COUNSEL: *Noel Middleton* and *Cleveland Stevens*, for the petitioner; *Sir Thomas Hughes*, K.C., *Colquhoun Dill* and *Beddington*, for the respondent; *Neville Gray*, for the child; *Gavin Simonds*, K.C., and *Hon. Victor Russell*, for the Trustees of the Settlement of 1920; *Charles Romer*, for the brothers of the respondent.

SOLICITORS: *Hunters; Theodore Goddard and Co.; Beachcroft, Hay and Ledward; Radcliffes and Hood.*

[Reported by J. F. COMPTON-MILLER, Esq., Barrister-at-Law.]

Correspondence.

The Companies Acts.

Sir,—Many months ago I made a suggestion for the amendment of the Companies Act, to protect the payment by a person who was good enough to advance money to pay the wages or salary, etc., of any clerk, servant, workman or labourer, and after plugging at the authorities for some months I was pleased to find that s. 209 (1) (*a*) of the Act of 1928 provided the protection which I had asked for.

We have a new Secretary of the Board of Trade, and if he will get as an amendment of the Bankruptcy Act the following provision he will benefit the community:—

> "Where any payment on account of wages or salary has been made to any clerk, servant, workman or labourer in the employment of a bankrupt out of money advanced by some person for that purpose that person shall in the bankruptcy have a right of priority in respect of the moneys so advanced unpaid up to the amount by which the sum in respect of which that clerk, servant, workman or labourer would have been entitled to priority in the bankruptcy has been diminished by reason of the payment having been made."

Surely if the provision is fair in the case of a company, it ought to be equally fair in the case of a bankruptcy.

The Board of Trade could add a new laurel to its crown if it would get the provisions of s. 95 of the Bills of Exchange Act, 1882, extended to what are loosely called banker's drafts, i.e., cheques drawn by a bank on itself.

Perhaps a letter in THE SOLICITORS' JOURNAL may attract the attention of some Member of Parliament or some official who knows a little of the defects of the law, which are very many.

London, E.C.2. E. T. HARGRAVES.
18th June.

Mr. Charles William Rees Stokes, solicitor, of Warwick House, Tenby, for sixty-three years connected with the Corporation of Tenby as deputy town clerk, town clerk, and latterly as a member of the council, who died on 2nd January, left estate of the gross value of £45,047, with net personalty £9,504.

THE LAW SOCIETY GENERAL MEETING.

General Meeting.

The following circular letter has been sent to members :—

"I am instructed by the council to inform you that the annual general meeting of the members of this society will be held at the Society's Hall, Chancery-lane entrance, on Friday, the 5th July, at 2 p.m.

"The following are the provisions of Bye-law 15 as to the business to be transacted at an annual general meeting, namely : "The business of an annual general meeting shall be the election of president, vice-president, and members of council, as directed by the charter, and also the election of auditors ; the reception of the accounts submitted by the auditors for approval, the reception of the annual report of the council, and the disposal of business introduced by the council, and of any other matter which may consistently with the charter and bye-laws be introduced at such meeting."

"Below will be found the names of the candidates nominated to fill the thirteen vacancies in the council, and in the offices of president, vice-president and auditors.

"E. R. Cook, Secretary."

The following have been proposed as president and vice-president : As president, Mr. Walter Henry Foster ; and as vice-president, Sir John Roger Burrow Gregory.

The following have been nominated as members of the council to be elected at the annual general meeting on the 5th July : Mr. Henry Thomas Alexander Dashwood, Mr. Hugh Matheson Foster (Aldershot), Mr. Douglas Thornbury Garrett, Mr. Arthur Murray Ingledew (Cardiff), Mr. Philip Raynsford Longmore (Hertford). Mr. Philip Hubert Martineau, Mr. Arthur Croke Morgan, Sir Charles Henry Morton (Liverpool), Mr. William Radcliffe Philpot, Sir Harry Goring Pritchard, Mr. Samuel Saw, Mr. Herbert Harger Scott (Gloucester), Mr. Harry Derwent Simpson (Manchester), Mr. Harold Nevil Smart, and Mr. Francis Edward James Smith.

The following have been proposed as auditors of the society : Mr. John Stephens Chappelow, Mr. George Grinling Harris, and Mr. Bertie Trayton Kenward.

We take the following from the annual report of the council intended to be presented to the general meeting.

Society's Representatives on Public Bodies.

Mr. G. S. Pott, B.A., has been appointed one of the council's representatives on the council of law reporting, and Sir Arthur Peake has been re-appointed a member of the council of law reporting for a further term of four years.

Mr. Edward Williamson has been re-appointed the society's representative on the governing body of the University College of South Wales and Monmouthshire for one year.

Solicitors' Acts, 1888 and 1919.

Mr. Randle F. W. Holme has been appointed a member of the statutory committee by the Master of the Rolls in place of Sir Cecil Coward, resigned.

Sir Dennis Herbert, M.P.

In June, 1928, Sir (then Mr.) Dennis Herbert, who has been a member of the council for six years, was appointed Deputy Chairman of Ways and Means in the House of Commons, and in the New Year's Honours List his name was included as having been made a Knight of the Order of the British Empire. The council on each occasion expressed to Sir Dennis on behalf of the profession their congratulations on the honours conferred.

Sir Harry G. Pritchard.

The New Year's Honours List included also the name of Sir Harry G. Pritchard, who received the honour of knighthood. Sir Harry G. Pritchard has been a member of the council for the past eight years, and is a member of the Royal Commission on Local Government.

Additional Premises in Carey-Street.

For some years past the council have been faced with the problem of how to secure additional accommodation for the society's requirements. The particular need has been for additional accommodation for students attending the society's lectures and classes. Last year, No. 60 Carey-street became vacant, and the opportunity occurred of acquiring the premises.

It has been decided, in view of the desirability as far as possible of keeping the various lecture and classrooms adjacent one to another, to transfer some of the other departments of the society's work to the newly acquired premises.

Membership of the Society.

The society has now 10,199 members, of whom 4,205 practise in town and 5,994 in the country. The number of members who joined the society during the past year is 370 as compared with 433 in the previous year. After allowing for deaths, resignations, and exclusions, the number of members shows an increase for the year of twenty-one. The present membership is once again the highest in the society's history, being approximately two-thirds of the total number of practising solicitors. The council venture to urge all members to do what they can towards persuading non-members to join the society. By this means it will be assisted in its work of protecting and advancing the interests of the profession.

Finances of the Society.

The accounts of the society for the year ending the 31st December, 1928, appear in the appendix to the report.

On the society's own account there is an adverse balance of £4,792 0s. 7d., mainly due to the exceptional expenditure in connection with renewals to the building, all of which has been charged against income.

Solicitors' War Memorial Fund.

This fund was established by members of the society, under the chairmanship of Mr. R. A. Pinsent, for the purpose of providing a permanent memorial of those solicitors and articled clerks who sacrificed their lives in the war.

The object of the fund, in addition to a visible memorial in the society's hall, was to provide financial assistance to those in the profession and their dependants who had suffered by the war. During the past year the trustees have made grants for this purpose amounting to the sum of £1,791 5s. (making with previous grants a total of £37,096 10s. 5d.) ; with the result, as the trustees believe, that many persons have been assisted to meet grave financial difficulties.

Future Provincial Meeting Arrangements.

On the invitation of the Bournemouth Law Society the provincial meeting which will open on the 30th September next will be held this year at Bournemouth.

The Bournemouth Town Council have kindly offered to assist in the entertainment of the society on the occasion.

Hall and Library.

Six hundred and thirty-five volumes were added to the library last year, and the total number of books is now about 64,300.

Record and Statistical Department.

Over 1,250 inquiries were received during the past year, and in nearly all cases the required information was obtained.

During the year ending the 15th November, 1928, 5,143 London and 10,025 country practising certificates were issued, as compared with 5,119 and 10,024 respectively in the previous year.

Certificates of death of 359 solicitors have been received from registrars of deaths during the year, compared with 385 during the previous year.

Examination Committee.

The number of successful candidates in 1928–29, as compared with the number in 1927–28, is as follows : Preliminary 210, as against 173 ; intermediate (law) 619, as against 541 ; accounts and book-keeping 666, as against 691 ; final 617, as against 533 ; honours 143, as against 138.

The number of articles of clerkship registered in 1918 (war period) was 137, and in the year 1928, 731.

Final Examination—Bequest for a Prize.

The late Mr. E. T. Child, of London, formerly a member of the Law Society, who died last year, bequeathed to the society a sum of £450 to found a prize for candidates at the final examination. It was referred to the examination committee to report upon the legacy and its application, and ultimately on their recommendation the council resolved that the income should be applied as a prize to be awarded each year to the candidate at the June final examination who, in the opinion of the council, should have shown the highest proficiency at that examination.

Solicitors Act, 1922—Section 3.

A slight variation having been made in the curriculum for the First Division London University Matriculation Examination Certificate, which enables a person who has passed the examination to be admitted and enrolled as a solicitor without serving under articles of clerkship to a practising solicitor for more than four years, a new order under s. 3 has been made granting the concession to those who hold a certificate of having passed the examination as so amended.

Legal Education.

The number of "articled clerk" students attending law schools (excluding the Universities of Oxford, Cambridge, and London) in the autumn term 1928, was 1,025, an increase of 94 or about 10 per cent. over the corresponding figures for the previous autumn term.

Mr. G. R. Y. Radcliffe, M.A., Fellow and Bursar of New College, Oxford, was appointed Principal of the society's Law School and Director of Studies following the resignation of Mr. E. C. S. Wade, and entered on his duties in the autumn term 1928. In view of Mr. Radcliffe's wish to gain some experience in his new work before undertaking the organisation of a conference of representatives of the approved schools, no conference was held in the Christmas Vacation.

Mr. R. M. Welsford resigned the position of Chairman of the Legal Education Committee, which he had held for over five years, on becoming President of the Society, and Mr. T. H. Bischoff, Vice-Chairman of the Committee, was appointed to succeed him.

Mr. E. C. S. Wade has succeeded Professor H. D. Hazeltine as Director of Articled Clerk students at Cambridge.

The Society's Law School.

In addition to the appointment of Mr. Radcliffe as principal, a number of changes have taken place in the teaching staff of the school. Mr. G. W. Keeton relinquished his appointment as assistant tutor on being appointed a lecturer at Manchester University. Mr. E. C. S. Wade accepted an appointment as tutor in the autumn term 1928, and in view of the continued increase in the number of students the council sanctioned the appointment to temporary assistant-tutorships of Mr. D. Browne, B.A., Eldon Scholar of Oxford University; Mr. H. G. Hanbury, M.A., Fellow and Tutor of Lincoln College, Oxford; Mr. J. F. C. Miller, M.A., Oxford; and Mr. R. P. Verchoyle, B.C.L., late Scholar of New College, Oxford.

These additions to the staff for the moment kept pace with the increased numbers at the school, and made it possible to keep the discussion classes at a maximum of about eighteen students each. But by increasing the number of classes held they actually aggravated the problem of housing the school, and a renewed increase in the number of students during the session 1928-29 over the session 1927-28 suggests that stability has not yet been reached. During the session 1928-29 there were 496 individual students at the school (excluding twenty-four correspondence students) as compared with 430 in the session 1927-28.

The number of students reading for the degree of LL.B. at London University continues large, and the number of students taking the course before articles has reached a figure at which it has become necessary to duplicate the special class for such students.

At the qualifying examinations held in the period under review, 412 present or past students were successful, viz., 201 in the final (pass), and 144 in the intermediate (exclusive of 67 who passed in accounts only). Nine students were placed in the first class in the intermediate.

In the final (honours) examinations, two first, thirteen second, and twenty-seven third classes were obtained by present or past students, as well as the following prizes: John Mackrell, Clifford's Inn and Daniel Reardon.

In the University of London LL.B. examination of 1928, seven students passed, of whom two obtained second class honours, and one (Mr. T. M. Wechsler) first class honours and the University scholarship. Seven students passed the intermediate examination of the University.

A number of moots and debates on legal topics were held during the session, including moots at which the Master of the Rolls and Sir Charles Sargant presided.

The *Bulletin of Recent Changes in the Law* has been issued terminally to students at all law schools, and numbers three and four of *The Bell Yard* have also appeared.

The Rugby football club had a full fixture list for three XV's for the season, which was highly successful except as regards the number of matches which had to be scratched owing to the frost. A cricket club has now been started, and has received a grant of £50 from the council. Although the club was not in being until a date at which many clubs had completed their fixture lists, it has already been able to arrange some sixteen matches.

Counsel Taking Instructions without Solicitors' Intervention.

Included in the annual statement of the General Council of the Bar for 1927 was an opinion that a barrister may advise gratuitiously or for a fee on a question of income tax, provided no dispute has arisen, without infringing the etiquette of the profession.

The council protested against this opinion prior to the meeting of the Bar Council at which the annual statement referred to was to be considered, and Sir Thomas Hughes, in referring to the matter at that meeting, intimated that the opinion was intended to be limited to cases in which barristers were advising their personal friends. This statement, whilst to some extent it modified the opinion, did not appear to the council entirely satisfactory. They therefore continued to make representations to the Bar Council, and as a result, the current annual statement of the Bar Council for 1928 modifies to some extent the opinion referred to. It shows that it was given in response to a question of whether a barrister might advise a friend gratuitously or for an adequate fee on liability to income tax, without the intervention of a solicitor, and it states that the reply which had been given in the previous annual statement was to be read in answer to this question and as meaning that the barrister might advise the client direct. Also that it was not intended to suggest, and the Bar Council did not consider, that barristers might advise or take instructions from professional persons such as accountants or income tax experts, acting for their clients without the intervention of their solicitors.

It is satisfactory to observe that the particular objection to the opinion which the council had felt has been removed.

Bar Etiquette.

General Retainers from Patent Agents.

The attention of the council was directed by members to a question of Bar etiquette in connection with a patent action. It appeared that a barrister had received through a firm of patent agents a general retainer on behalf of a person for whom they were acting. It appeared also that a firm of solicitors who had instructed the barrister in various infringement proceedings had commenced an action against the person on whose behalf the general retainer had been given. The barrister, on being offered a brief by the solicitors, expressed doubt as to whether he ought to accept it in view of the general retainer referred to. The solicitors requested the opinion of the council on the subject, who stated that as the general retainer must be limited to the work which patent agents could do, it could not extend to legal proceedings. They considered, therefore, that the barrister in question could accept the brief. Subsequently they made representations to this effect to the General Council of the Bar.

The Bar Council have now issued the opinion that a general retainer can only be given by a patent agent for matters in which a patent agent can instruct counsel without the intervention of a solicitor. That is to say, in non-contentious business and in contentious business, before the controller and the law officer. The Bar Council expressed the further opinion that in order to avoid misapprehension, general retainers given by patent agents should be expressly limited to the work they can do.

Local Government Act, 1929.

Section 126 of this Act provides that if any difficulty arises in connection with the application of the Act to any exceptional area or in bringing into operation any of its provisions, the Minister of Health may make such order for removing the difficulty as he may judge to be necessary for that purpose, and any such order may modify the provisions of the Act so far as may appear to the Minister necessary for carrying the order into effect.

Although the council were aware that there are precedents for legislation conferring something of the nature of legislative powers upon State Departments, they are of opinion that such powers should be restricted as much as possible. They joined therefore in representations that there should be some control placed upon the power of the Minister in this particular instance. When the Bill came before the House of Lords, the Lord Chancellor acquiesced in this view and moved accordingly an amendment which has been included in the Act, that every order made by the Minister must be laid before Parliament as soon as may be after it is made, and that it shall cease to have effect after three months, unless before the expiration of that period it has been approved by a resolution of both Houses.

Careless Drafting of Legislation.

Representations were made to the council regarding recent cases in which comment had been made by his Majesty's judges upon the difficulty of arriving at the true meaning of certain recently passed Acts of Parliament.

The council are persuaded that the difficulties referred to are caused by the hasty manner in which legislation is dealt with and particularly by reason of the fact that Bills are sent up from the House of Commons to the House of Lords of an exceedingly complicated nature at the end of the session when no adequate time for their consideration is available.

It was in these circumstances that the council passed and circulated the following resolution:—

"The council of the Law Society regard it as seriously to the public disadvantage that frequently insufficient time is

allowed to the House of Lords properly to consider Bills sent to them from the House of Commons at the conclusion of Sessions of Parliament, and that consequently even less time is allowed to the House of Commons for consideration of amendments made in the House of Lords.

"The council are of opinion that not only is it essential that those who are made responsible under the Constitution for the substance of legislation should have more, rather than less, than sufficient time properly to examine and appreciate it, but that with regard also to its form it is necessary that ambiguities should be avoided and meanings made clear. They venture to express the hope that some means may be found for securing careful scrutiny of all legislation, so that the Courts of Justice may be relieved as far as possible from the present burden of elucidating statutes of which varying meanings are possible and unwilling litigants spared the anxiety and expense to which too often they are subjected."

Registration of Title.

In one of the early months of last year the Surrey County Council, prompted by a resolution passed by a small majority of persons called together for the purpose at Reigate, instituted an inquiry as to whether compulsory registration of title should be extended to the county of Surrey. The council were early informed as to the meeting and as to the circumstances under which it had been convened. They took steps, therefore, to inform the county council of these circumstances and directed their attention to the various statutory provisions affecting the question. The county council took steps to ascertain the views of landowners in Surrey and of the various town and rural and urban district councils. The county council have now adopted a report of a special committee which had been appointed for the purpose and have decided accordingly against applying to the Privy Council for an order to include Surrey in the compulsory area.

The council have been informed by certain of the law societies in Yorkshire that the North Riding County Council are engaged at the present time in an inquiry as to whether compulsory registration should be extended to the North Riding.

Land Registry Practice.

Representations have been made to the council that on a mortgage of registered land the old practice of allowing the mortgagee to have the custody of the land certificate should be restored instead of the land certificate being deposited at the Land Registry in exchange for a green receipt which the mortgagee usually insists upon holding.

The council pointed out in the first instance that the green receipt is not a document of title and expressed the opinion that a mortgagee should not insist upon it being handed to him. They then inquired of the Registrar whether he would be willing to revert to the old practice. On receiving his reply in the negative, the council expressed to the members who had raised the question the opinion that even if it were desirable it would be hopeless to attempt to secure a restoration of the old practice of allowing the mortgagee to hold the land certificate.

Solicitor Receiving Rent of House Property.

Liability for Repairs.

The attention of the council was directed to the decision of a Metropolitan Police magistrate who held that a solicitor who received from the actual collector the rents of certain working-class houses on behalf of the administratrix of a deceased person's estate was the "owner" within s. 28 (5) of the Housing Act, 1929, so as to be chargeable with the expenses of repairs executed by the local authority under that section. The magistrate, it appeared, had admitted that his order might open the door to a great injustice, but had felt bound, by the statutes regulating the question, to hold that the solicitor was the owner of the property, as having been the person for the time being receiving the rack rent, whether on his own account or as agent or trustee for any other person.

The council were asked to support an appeal from the magistrate's order, and after careful consideration arrived at the opinion that such an appeal would fail. They considered also that the question was not one sufficiently affecting the profession as such, as to justify their intervention. They referred the matter, however, to the Parliamentary Committee to consider the possibility of supporting legislation to some extent to ameliorate the law in favour of persons who might find themselves in the position of the solicitor against whom the order had been made.

Poor Persons Procedure.

The annual report for 1928 recorded the work done to the end of the year 1927, and referred to the fact that the council, in view of the satisfactory progress which had been made, had decided to assume responsibility, not merely for the London work, but also for the office staff and organisation at the Royal Courts of Justice through whom it had been administered. The same report stated also that the Law Courts' staff had ceased accordingly, as from the 1st April, 1928, to be civil servants and had become employees of the Law Society.

In order to meet the additional cost involved, the former Treasury grant was increased for the year 1928-1929 by the amount of the salaries of the Law Courts' staff, thus absolving the Law Society from any financial burden in connection with Poor Persons administration.

In February last there was issued a report of the work done during the year 1928 of the committees appointed by the Law Society, and the various Provincial Law Societies. It includes individual reports from seventy-four of the eighty-three committees administering the procedure, and in view of its interest and importance it is included in the Appendix.

The report shows that all the cases under the rules, as they existed before April, 1926, have been allocated for conduct, and that but very few of those cases remain undisposed of. It shows also that it has been possible to reduce the staff at the Law Courts by the number of those who formerly had control of the cases under the old rules.

The report indicates also that the progress of the work under the new rules had been satisfactory during the year under review, and that the council had been justified in accepting full responsibility for it on behalf of the profession. Also that the satisfactory progress was to be attributed in the first place to the simplification of the procedure, and secondly to the remarkably valuable services of the voluntary committees and conducting solicitors in London and throughout the provinces, and to the zeal and energy of the honorary secretaries to the numerous committees. The report included such information and statistics as to the work which it had been possible to collect, and it recorded also various amendments in the rules which had been made during the year. These alterations include a power to the committees to discharge certificates at any time before they are filed in court and a provision that solicitors allocated for the conduct of High Court cases may follow them when they are remitted to the county court.

On the question of finance the report showed that the administration expenses for London and the provinces for the year ending the 31st March, 1929, would amount to £5,369 5s. 6d., leaving a balance of £466 5s. from that year's

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grant in aid. Also that for the year ending the 31st March, 1930, it was estimated that the expenses would amount to £5,572, and that the Treasury had been requested to estimate for a sum of £5,000 for that year.

The report concluded with an expression of gratitude to all those solicitors who, by the conduct of cases or by attending the committees, had done so much to render the work successful.

Companies Act, 1928.

The Companies Bill referred to in the last annual report was passed into law as the Companies Act, 1928. It had received very careful consideration by the council, and it incorporates many suggestions which they made.

The Companies Consolidation Bill was also introduced and has passed. It incorporates a new draft Table A. The draft was submitted to the council by the Board of Trade and suggestions upon it were made.

Solicitors' Clerks' Pension Scheme.

At the provincial meeting held at Eastbourne, a paper was read on the subject of solicitors' clerks' pensions, as a result of which the meeting passed a resolution that, having heard the scheme submitted by Mr. Drake, it be referred to the council to consider it and report upon it at a future meeting of the society.

When the council re-assembled after the Long Vacation they considered this resolution and decided to consult the Provincial Law Societies with regard to it. They prepared also a draft trust deed setting out proposals which appeared to them practicable, which might fairly be submitted to the profession. The draft deed is under consideration by the Provincial Law Societies, many of whom have already expressed their approval of it.

Lawyers in the Civil Service.

It was mentioned in the last annual report that the method of recruiting for examinerships in the Estate Duty Office was being altered, and that the council had conferred with the Bar Council on the subject. As a result of such conference the following joint resolution was passed and forwarded to the Financial Secretary to the Treasury and permanent head of the Inland Revenue Department :—

> " The General Council of the Bar and the Council of the Law Society have had under their consideration the proposal by the Board of Inland Revenue to recruit examiners in the Estate Duty Office by open competitive examination among candidates between eighteen and nineteen years of age in order to attract a flow of candidates.
>
> " The two councils desire to make representation at this juncture that in their opinion the examiners should, as in the past, for the efficiency of the service be persons holding professional legal qualifications.
>
> " The new proposals will preclude this, and should not, in their opinion, be embarked upon until the concessions as regards salary recently made to professionally-qualified examiners (which should in the opinion of the two councils be applied to recruits) have been shown to be a failure in attracting them.
>
> " They venture to suggest that if the Board make application direct to the Bar Council and the Law Society from time to time stating the conditions of service and emoluments, it will be found that sufficient recruits are available."

Subsequently a letter was received from the Institution of Professional Civil Servants, thanking the council for their intervention.

Prosecutions at Assizes and Quarter Sessions.

The following resolution was passed by the Associated Provincial Law Societies :—

> " That this association views with concern the growing bureaucratic practice in provincial towns whereby town clerks conduct criminal proceedings at petty sessions, quarter sessions, and assizes to the exclusion of local practitioners, and requests that representation be made to the Home Office or other appropriate department with a view to such policy being curtailed."

This resolution was submitted to the council of the Law Society, who inquired into the matter. They found that a departmental committee which was appointed in 1902 to inquire into the allowances to prosecutors and witnesses in criminal prosecutions, not only approved the practice of town clerks conducting prosecutions, as tending to economy, but advocated its extension. The council felt, in these circumstances, that it would be useless to make representations on the subject.

Law Reporting.

Members of the society stated that in a particular case in an action in which they had been engaged, counsel's clerk had lent his briefs and papers to shorthand writers to enable them to complete their notes. The council intimated to the General Council of the Bar their disapproval of the practice and invited their views.

The reply received from the Bar Council was that in their opinion the papers in a brief to counsel are the property of the client, and counsel has no right to lend them to law reporters or to anyone without the consent of the client, and particularly that the observations or proofs in the brief should never be lent without the express consent of the client.

Solicitors Acts (Consolidation) Bill.

Reference was made in the last annual report to the Solicitors Acts (Consolidation) Bill and to the fact that the Government had been requested to introduce it. The Bill was introduced in the House of Commons and secured a second reading and was referred to a Standing Committee, but owing to the dissolution of Parliament it made no further progress.

In view of the multiplicity of Acts relating to solicitors commencing from the statute passed in the reign of Edward I, it would be of great practical advantage to the public and to the profession if the Consolidating Bill were to become law.

Agricultural Credits Act, 1928.

When the Agricultural Credits Bill was before Parliament, the council considered its effect upon solicitors generally, having regard to the fact that it was proposed to encourage farmers to borrow money only from banks. As it appeared, however, that those who were advising the farmers considered the Bill was in their interest, the council felt it was impossible to oppose the general principles of the Bill, although the question remained as to what effect upon the profession would result from a proposal to subsidise a new corporation, to be established for the purpose of making advances to farmers on mortgage of their farms.

The Agricultural Credits Act, 1928, was passed on the 3rd August, 1928, and subsequently the Agricultural Mortgage Corporation was registered as a company formed to carry out its provisions.

Representations were made to the Corporation to the effect that it would be in the interest of the Corporation and of the banks if as far as possible solicitors practising locally were instructed in connection with mortgages under the Act.

It was pointed out that not merely would farmers feel greater confidence in dealing with solicitors whom they knew, but the banks also would have the advantage of being able to utilise the local knowledge of solicitors as to titles and as to the financial status of applicants for loans. As a result of these representations the Agricultural Mortgage Corporation Limited decided that they would make arrangements for the present that the investigation of titles to properties to be mortgaged to the corporation should be carried out by local solicitors.

The council have been informed that the following scale of solicitors' remuneration has been fixed by the corporation : £3 3s. for loans up to £250 ; £4 4s. for loans up to £1,000 ; 10s. 6d. per £1,000 after the first £1,000 up to a maximum of £12 12s., except in special cases.

Proceedings before Metropolitan Magistrates.

In the last annual report reference was made to a deputation from the council which had attended upon the Home Secretary and had asked that some steps should be taken towards overcoming delay in the hearing of heavy cases before Metropolitan Police magistrates. It was stated that the Home Secretary had received the deputation sympathetically, and had promised that the matter should receive his careful consideration.

It was suggested also that an effort might be made to relieve stipendiary magistrates by transferring some portions of their work to the various benches of magistrates at petty sessions.

In October last the Home Secretary appointed a committee on Metropolitan Police and Juvenile Courts. That committee in due course invited the council to tender evidence, and subsequently evidence was tendered on behalf of the council as to the delays which have occurred and as to the remedies suggested for relieving the stipendiary magistrates of portions of their work by transferring it to petty sessions.

The suggestion was made also at the instance of members that solicitors should be rendered eligible for appointments as police court magistrates.

Crown Procedure.

It was stated in the last annual report that no progress had been made towards introducing legislation to assimilate legal proceedings between Crown and subject similar to those between subject and subject. The council regret that a similar report must be made on the present occasion.

The Departmental Committee report incorporated the draft of a Bill to bring about the desired assimilation, and a conference took place between the Bar Council and the council of the Law Society to consider what, if anything, could be done towards inducing the Government to introduce the Bill.

As a result of the conference referred to, a letter over the signatures of the chairman of the Bar Council and the president of the Law Society, setting out the reasons for their view that the Bill should be introduced, appeared in the public Press.

The council also did what they could towards inducing private members of Parliament to introduce the Bill in case they should be successful in the Private Bill ballot. A certain number of sympathetic replies were received, but nothing in fact was achieved. Questions were asked in the House of Commons, to which the Attorney-General replied that the subject was controversial, and that the Government were not prepared to introduce a Bill in that session. Later in the year, he added, that having regard to the state of Parliamentary business, it would not be possible to introduce legislation on the subject during the lifetime of the present Parliament.

Sir Henry Slesser introduced a Private Bill which, though it made no progress, had the effect of drawing public attention to the matter.

Evidence in Bastardy Cases.

The council have received several communications commenting upon the doubt which exists as to whether the power of magistrates to issue subpœnas to secure attendance of witnesses in bastardy cases has been repealed by the Poor Law Act, 1927, so as to involve the necessity in each case of issuing a Crown office subpœna.

A communication on the subject was addressed to the Home Secretary, and a reply was received to the effect that the Secretary of State had been advised that justices may properly act on the view that s. 70 of the Poor Law (Amendment) Act, 1844, has not, in so far as it applies to proceedings in bastardy cases, been affected by the Poor Law Act, 1927, which consolidated the Poor Law. The Secretary of State, however, stated he had not authority to determine the question of law, and that the point had been noted with a view to making the position clear by introducing legislation at the first convenient opportunity. It appears to the council unfortunate that there should have been doubt upon such a question. They are glad to observe that an Act has since been passed which enacts that the repeal by the Poor Law Act, 1927, of s. 70 of the Poor Law (Amendment) Act, 1844, did not operate to repeal the said section in its application to bastardy proceedings and that accordingly the said section, notwithstanding the said repeal, always continued and continues in operation in its application to such proceedings.

Law of Arbitration.

The Departmental Committee appointed by the Lord Chancellor to report upon the Law of Arbitration, before whom evidence was tendered on behalf of the council, presented their report in March, 1927.

The City of London Solicitors' Company inquired if the council proposed to take steps towards urging that the recommendation of the committee should be carried into effect. The council arranged for a question to be asked on the subject in the House of Commons. The reply of the Attorney-General was that it is impossible to introduce legislation on the subject during the present Parliament: he added that the matter would require, and would no doubt receive, reconsideration after the General Election.

Rating Appeals.

The Hampshire Law Society passed a resolution expressing the opinion that the rule allowing a solicitor right of audience before quarter sessions for counties in rating appeals where the value of the hereditaments concerned does not exceed £100 should be extended to Borough Quarter Sessions before a recorder.

The council referred the matter to the Parliamentary Committee, who reported that s. 32, s-s. (8), of the Rating Act, 1925, which reserved to solicitors the right of audience at County Quarter Sessions on rating appeals up to £100 was the result of a compromise and was the best compromise that could be obtained. It might seem anomalous that a similar right had not been granted by the Legislature before recorders at Borough Quarter Sessions, but the committee did not consider there was any likelihood at the present time of securing legislation to extend the audience.

Delays in the Lunacy Office.

The attention of the council was directed to the activities of the personal application department of the Lunacy Office and to circular letters to banks and others which had emanated from that office, tending to encourage personal applications. Communications on the subject were addressed to the Lord Chancellor's department, who replied that the Lunacy Office had always been ready to deal with personal applications, and that all that had happened had been to separate the personal application department from the general staff of the office for the convenience of administration.

During the past year the council have received numerous complaints of serious delay in the Lunacy Office, and with regard to these they have made complaints to the Lord Chancellor's Department. They have been assured that the delays are in course of being remedied.

Bankruptcy Appeals.

In October last, the Associated Provincial Law Societies passed a resolution: "That it is desirable that s. 108 of the Bankruptcy Act, 1914, be amended so as to allow an appeal from the Court of Appeal to the House of Lords with leave in bankruptcy cases coming from the County Court as well as in cases coming from the High Court." The foregoing resolution was considered by the council who were disposed to agree with it.

Accordingly they addressed a communication on the subject to the Board of Trade. The reply of the Board of Trade was that as s. 105 has placed a limit upon the jurisdiction of the county court as regards claims not arising out of the bankruptcy and as this principle has been extended to claims arising out of the bankruptcy when the amount at stake is large or fraud is alleged, the proper course in large cases is to object to the jurisdiction of the county court, and that, as this can be done, the Board of Trade are not in favour of amending s. 108.

A communication ont he subject has been addressed to the Lord Chancellor.

Collection of Revenue by Adhesive Stamps.

A departmental committee has been appointed by the Lord Chancellor to examine the arrangements in the Law Courts and the Land Registry for the collection of fees by means of adhesive stamps and to report what modifications, if any, are desirable, regard being had to the need for the protection of public moneys, the maintenance of adequate facilities for the discharge of public business and to any other considerations involved.

Evidence was invited and has been tendered on behalf of the Law Society.

Solicitors Act, 1928.

Reference was made in the last annual report to the fact that the council were promoting a Bill to prohibit the employment by solicitors, without the permission of the Law Society, of any person who has been struck off the rolls or suspended from practice. The legislation referred to became law last August and the council are indebted to Lord Darling for the great interest he took in the Bill, and for his trouble in securing its passage into law.

A considerable number of applications have been made to the Law Society by solicitors for leave to employ persons coming within the category of the Bill. The Act has enabled the council to make full inquiries regarding the persons to be employed and the conditions of their proposed employment. Many applications have been granted, some subject to conditions, and some unconditionally; and some applications have been refused. There can be no doubt as to the value of the legislation to the Profession.

Proceedings under the Solicitors Acts.

The fortieth annual report of the committee constituted under The Solicitors Acts, 1888 and 1919, will be found in the Appendix and a reference to this report will show that on the application of the society the names of thirteen solicitors, who had previously been convicted on indictment and sentenced to terms of imprisonment, were struck off the Roll by order of the committee; that on the application of private individuals and of the society the names of eleven solicitors were struck off the Roll and five other solicitors were suspended from practising and ordered to pay costs; that in one case the committee found that although the allegation against the solicitor had not been substantiated his conduct was highly reprehensible, and the application was justified, and they ordered the solicitor to pay the costs; that in two cases the committee found that the allegations had not been substantiated and in each case they ordered the complainant to pay the costs; and that in one case the conduct of the solicitor was deserving of grave censure, and he was ordered to pay the costs.

Convictions for offences under s. 12 of the Solicitors Act, 1874, and s. 44 of the Stamp Act, 1891, were obtained against seven unqualified persons, and also against three solicitors practising without certificates, and other cases have either been dismissed or withdrawn after inquiry and apology had been made.

Under the provisions of the Solicitors Act, 1906, applications by three solicitors who were undischarged bankrupts for the renewal of their practising certificates were refused.

As regards applications under s. 16 of the Solicitors Act, 1888, the council refused to renew the certificates of two

solicitors. In one of these cases the solicitor appealed and the Master of the Rolls confirmed the decision of the council.

An application for re-admission to the Roll by an ex-solicitor who was struck off on conviction of a criminal offence was opposed by the council, and the Master of the Rolls confirmed their decision.

Proceedings were also taken during the year against a solicitor and an unqualified person for offences under s. 32 of the Solicitors Act, 1843, and resulted in the solicitor being struck off the Roll and the unqualified person being bound over upon his undertaking not to engage in any legal work in the future.

Societies.

Incorporated Justices' Clerks' Society.

ANNUAL GENERAL MEETING.

Under the chairmanship of Mr. J. B. Cooke (Wakefield), Acting President, the eighty-ninth annual meeting of the Incorporated Justices' Clerks' Society was held at the Law Society's Hall on Friday, the 21st inst. Among those present were: Mr. Edward J. Waugh (Haywards Heath), Mr. G. T. Whiteley (London), Mr. F. B. Dingle (Sheffield), Mr. E. J. Hayward (Cardiff), Mr. W. H. Foyster (Salford), and Mr. F. C. E. Jessopp (Waltham Abbey), members of the Council; Mr. J. W. Smith (Bury), Mr. C. Raymond Bond (Gore), Mr. Neville R. Stone (Tunbridge Wells), Mr. W. Archibald Boyes (Barnet), Mr. Arthur A. Lett (Waterington), Mr. F. G. Robinson (Ilkeston), Mr. William L. Phair (West Bromwich), Mr. H. C. Barnes (London), Mr. Charles Burton (Liverpool) and Mr. Frank S. Tyrrell (Bridgnorth).

The report, after expressing the regret of the Council at the death of Mr. S. E. Major, senior, of Barrow, who was elected president at the last annual meeting, stated that the post had been filled for the remainder of the year by Mr. J. B. Cooke, who was elected Vice-President at that meeting. The efforts of the Council to secure a proper superannuation scheme for justices' clerks were being continued. Meetings had been held by the Council's committee, both alone and in joint association with the committee of the Magistrates' Association, and the Council had devoted much time in the endeavour to formulate such proposals as would be beneficial to justices' clerks and might be capable of attainment.

The PRESIDENT moved the adoption of the report, observing that the question as to whether the scheme should be contributory or non-contributory might have each its adherents, as both systems had statutory authority, but the latest scheme of the Law Society for granting pensions to law clerks on a contributory basis seemed to point to a similar principle, if justices' clerks were to be superannuated. Again, the position of full-time justices' clerks and part-time clerks was not easy to define. It might be said that an admitted clerk, who was permitted to carry on a private practice, was clearly a part-time clerk, but would an unadmitted clerk, who might also act, say, as an accountant, be considered a full-time clerk? Would an admitted clerk, who held the position of clerk to visiting justices, to a committee of a private asylum, and various other public bodies, be a full-time clerk? Then, in the case of full-time unadmitted clerks in comparatively small boroughs and divisions, and of part-time clerks of large boroughs or county divisions where the clerk had to provide his own staff, printing, etc., upon what portion of his salary, and by whom fixed, would his contribution and amount of pension be calculated. Whatever was done, it seemed to him that the present method of appointment must be clearly preserved, as he attached even greater importance to that than to superannuation itself.

Mr. E. J. HAYWARD (Cardiff) pointed out that the scheme prescribed by the Coroners (Amendment) Act of 1926 had been taken as a basis for discussion. He said that some of the matters that had been provisionally agreed upon were (1) That the scheme should be non-contributory; (2) that the appointment and control of the justices' clerk should be in the hands of the justices concerned; (3) that the terms of service should be similar to those prescribed by the Coroners Act, that was, after five years service; (4) that the normal age of compulsory retirement should be seventy, but that this age might be extended on a recommendation of the justices; (5) that the minimum pension payable should be two-thirds of the average salary paid during the five years preceding retirement, after twenty-five years service; (6) that past service as clerk to the justices (not necessarily under one authority) should be recognised up to twenty years service, before the coming into force of any Act; (7) that an appeal on any point should be with the Home Office. The question of a scheme for the superannuation of the staffs had also been discussed, and it was provisionally agreed that the Local Government Act of 1922 would be satisfactory if applied to them, provided the appointment and control were vested in the justices. The chairman of the committee felt that no proper scheme of superannuation could be adopted for the staffs of whole-time clerks unless their control was vested in the justices, so as to secure continuity of employment. The scheme proposed involved the clerks being on a non-contributory basis and the staffs on a contributory basis, and it was doubtful whether such a scheme would pass through Parliament. The Council suggested that the clerks' scheme should be on a contributory basis, and that they should contribute 5 per cent. of their salaries. This might lessen the opposition which might reasonably be expected from local authorities.

The report was adopted unanimously.

Mr. J. B. Cooke (Wakefield) was elected President, and Mr. R. A. Reay-Nadin Vice-President. The following were re-elected members of the Council: Mr. F. B. Dingle (Sheffield), Mr. W. H. Foyster (Salford), Mr. E. J. Hayward (Cardiff), Mr. F. C. E. Jessopp (Waltham Abbey), Col. F. G. Langham, C.M.G. (Hastings), Mr. J. R. Roberts, O.B.E. (Newcastle-upon-Tyne), Mr. J. W. Thorpe (Swansea), Mr. E. J. Waugh (Hayward's Heath), and Mr. G. T. Whiteley (Southwark). Mr. Henry Rosling (Reigate) was re-elected Secretary.

Rules and Orders.

THE MOTOR CARS (EXCESSIVE NOISE) REGULATIONS, 1929, DATED JUNE 3, 1929, MADE BY THE MINISTER OF TRANSPORT.

The Minister of Transport in exercise of the powers conferred on him or vested in him under or by virtue of the Motor Car Acts, 1896 and 1903, (*) the Ministry of Transport Act, 1919,(†) the Ministry of Transport (Ministry of Health Exception of Powers) Order, 1919,(‡) and the Ministry of Transport (Secretary for Scotland Transfer and Exception of Powers) Order, 1920,(§) and of all other powers in that behalf vested in him, hereby makes the following Regulations, that is to say:—

1. These Regulations may be cited as "The Motor Cars (Excessive Noise) Regulations, 1929," and shall come into force on the first day of August, 1929.

2. No person shall use or permit to be used on any highway any motor car which causes any excessive noise either directly or indirectly as a result of—

(*a*) any defect (including a defect in design or construction), lack of repair or faulty adjustment in the motor car or in any vehicle drawn thereby or in any part or accessory of such motor car or vehicle drawn thereby, or

(*b*) the faulty packing or adjustment of the load of such motor car or vehicle drawn thereby.

Provided that it shall be a good defence to proceedings taken under this Regulation—

(i) to prove that the noise or continuance of the noise in respect of which the proceedings are taken was due to some temporary or accidental cause, and could not have been prevented by the exercise of due diligence and care on the part of the owner or driver of the motor car; or

(ii) in the case of proceedings against the driver or person in charge of a motor car who is not the owner thereof, to prove that the noise arose through a defect in design or construction of the motor car, or through the negligence or fault of some other person whose duty it was to keep the motor car or vehicle drawn thereby in proper condition or in a proper state of repair or adjustment, or properly to pack or adjust the load of such motor car or vehicle drawn thereby, as the case may be, and could not have been prevented by the exercise of reasonable diligence and care on the part of such driver or other person in charge of the motor car.

3. When a motor car is stationary on any highway no person shall use or permit to be used in connection therewith any instrument provided for the purpose of giving audible warning, except when such use is necessary on grounds of safety.

Given under the Seal of the Minister of Transport this third day of June, 1929.

(L.S.) 4278 F.G.T.

H. H. Piggott,
Assistant Secretary.

* 59–60 V. c. 36 and 3 E 7. c. 36.
† 9–10 G. 5. c. 50.
‡ S.R. & O. 1919 (No. 1441), II, p. 841.
§ S.R. & O. 1920 (No. 2122), p. 1452.

Mr. Edward Harold Morris, solicitor, of Brynmyrddin, Abergwili, Carmarthen, late a member of the firm of Barker, Morris & Barker, Carmarthen, left unsettled property of the gross value of £35,619.

Legal Notes and News.

Honours and Appointments.

The London County Council at its meeting on the 18th inst. appointed Mr. STANLEY A. R. PRESTON-HILLARY (Chief Assistant Solicitor) to be Solicitor to the Council. Mr. Preston-Hillary, who was admitted in 1901, was articled to the late Mr. Trevor Edwards, the Solicitor to the County Council of the West Riding of Yorkshire.

Mr. WILLIAM JONES, solicitor, of the firm of Ellis Davies and Co., Carnarvon, has been appointed Deputy Coroner for North Carnarvonshire. Mr. Jones was admitted in 1920.

Mr. R. BARKER, Assistant Clerk to the Norton and Malton Rural District Councils, has been promoted to the Clerkship, and Mr. T. T. STOCKDALE appointed Assistant Clerk.

Mr. H. SMITH, of Thorne, Doncaster, has been appointed Clerk to the Market Bosworth Rural District Council and Board of Guardians.

Mr. H. HOOPER TOMSON, solicitor (the present Deputy Town Clerk), has been appointed Town Clerk of the County Borough of Salford in succession to Mr. L. C. Evans, who retires in July. Mr. Tomson was admitted in 1919.

The Lord Chancellor has appointed Sir R. JAMES CURTIS, K.B.E., J.P., solicitor, a Justice of the Peace for the City of Birmingham. Sir James Curtis, who was admitted in 1906, was for twenty-five years Clerk and Solicitor to the Birmingham Guardians (and previously to the King's Norton Guardians) and retired in 1927 after forty-four years' service.

Mr. PERCIVAL CYRIL HUBBARD, B.A., LL.B., barrister-at-law, has been appointed to act as Chief Magistrate and Legal Adviser of the British Solomon Islands Protectorate and Judicial Commissioner for the Western Pacific with jurisdiction in the Protectorate.

Mr. CHARLES E. CRANFIELD, solicitor, has been appointed Town Clerk of the County Borough of West Ham to fill the vacancy caused by the retirement of Mr. G. E. Hilleary, M.A., solicitor, on account of ill-health.

Professional Announcements.

(2s. per line.)

Mr. J. G. LITTLEDALE has acquired the Bexhill Branch of Messrs. Bennett, Ferris & Bennett, solicitors, and will, as from the 24th June, 1929, carry on the practice under the style of J. G. Littledale, at Endwell-chambers, Endwell-road, Bexhill-on-Sea. London agents, Messrs. Bennett, Ferris and Bennett.

Messrs. FOWLER, LEGG & YOUNG, solicitors, of 13, Bedford-row, give notice that owing to the death of Mr. William Aitchison Young, the firm has been re-constituted. It now consists of Sir George Fowler, Mr. A. Stuart Legg, Mr. Sydney George Wood, Mr. J. Seaborne Hook and Mr. F. C. Greaney, and its new title is Fowler, Legg & Wood.

Mr. CHALTON HUBBARD, J.P., solicitor, of No. 34, Bloomsbury-square, W.C., has, in consequence of the demolition of his present offices, removed to Victoria House, Southampton-row, W.C., and has taken into partnership Mr. Harold Francis Casserley, who has been with him for some years. The business will in future be carried on as Chalton Hubbard & Co.

Messrs. LEADER, PLUNKETT & LEAVER, solicitors, St. Paul's House, 49-50, Newgate-street, E.C.1, announce that they have taken into partnership as from the 1st June, 1929, Mr. Donald William Plunkett and Mr. Kenneth Rutherglen Leader.

RECOVERY OF POOR LAW RELIEF LOAN.

The Middlesbrough Stipendiary Magistrate, says *The Times*, on Wednesday, held that the Statute of Limitations did not apply in the case of a steelworker summoned by the Board of Guardians for the repayment of £4 10s. relief on loan granted in 1921-22. The defendant claimed that as seven years had elapsed repayment could not now be claimed. The stipendiary said that in a case which came before the Divisional Court it was held that the time for repayment dated from the time when the first demand was made. In the present case a demand for repayment was not made until three months ago. He therefore held that the loan did not become repayable till then and that the claim was valid.

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THE EAGLE STAR AND BRITISH DOMINIONS INSURANCE CO. LIMITED.

The following have been appointed directors on the new Liverpool Board of the above Company : Sir Thomas White, J.P., Sir John Hugo Rutherford, Bart. (Chairman of the Central Valuation Committee for England and Wales), Alderman Richard Rutherford and Mr. J. Parry Thomas.

MR. JUSTICE SHEARMAN.

The Herefordshire Assizes had to be adjourned until Thursday in consequence of the illness of Mr. Justice Shearman, who recently underwent a serious operation. He had conducted cases at Hereford since Monday, and while hearing a libel action on Wednesday morning felt ill, but continued until the luncheon interval. He returned to the assize court at the time fixed for the resumption, but was still indisposed and remained in the judges' room for an hour. He then took his seat and the case proceeded for three-quarters of an hour, but he was obviously ill, and the proceedings had to be adjourned.

SOCIETY OF COMPARATIVE LEGISLATION.

Lord Reading has accepted the invitation of the executive committee of the Society of Comparative Legislation to become president of the society in succession to Lord Rosebery, who had held the position for twenty-eight years up to the time of his death. At a recent meeting of the committee, Professor J. B. Peden, President of the Legislative Council of New South Wales and Dean of the Faculty of Law in the University of Sydney, was elected a member of the council.

PRISONER WHO WAS FORGOTTEN.

At the Central Criminal Court on Wednesday last the Common Serjeant (Sir Henry F. Dickens, K.C.), in postponing sentence on a young man until the next session, saying that he then hoped to discharge him, explained to the jury that they were able to take that course at that court, but not at assizes. There was, Sir Henry Dickens said, a story of a prisoner who was treated in this way by a judge at an assize. The same judge did not sit at the next assize, and so they forgot all about the prisoner and he remained in prison. (Laughter.)

THE EFFECT OF CRIMINAL JUSTICE ACT.

The calendar for the June session of the Central Criminal Court contains the names of sixty-five persons. The session was opened by the Lord Mayor (Sir Kynaston Studd) at the Sessions House, Old Bailey, on Wednesday. Accompanying the Lord Mayor on the Bench at the opening ceremony were the Recorder of London (Sir Ernest Wild, K.C.), Mr. Alderman Jacobs, Alderman and Sheriff Sir William Waterlow, Mr. Sheriff W. G. Coxen, Mr. Under-Sheriff T. Howard Deighton, and Mr. Under-Sheriff W. H. Champness.

The Recorder, in charging the Grand Jury, said that at the last session, which began on 28th May, four weeks ago, he had occasion to remark upon the gravity of the calendar, which was a very heavy one, so heavy that, although the session began on 28th May, they only finished the work last Friday afternoon. The present calendar was not as heavy as that for the last session, and that was partly due to the fact that the interval had been shorter. Another factor to be taken into consideration in congratulating themselves on the fact that the names of only sixty-five persons appeared in the calendar was that proper use had been made of the section in the Criminal Justice Act, 1925, which gave power to justices to commit cases to convenient assizes or quarter sessions. Until that section of the Act was passed it could happen that people were kept waiting trial for as much as five months. It happened that only last Saturday there was a case committed to that court from Bath, and another case had been sent from Maidstone. The Central Criminal Court was thus the collecting ground for all over the country. Cases were sent to it to be tried from places outside its primary area of jurisdiction and that added to their labours; but as long as it tended to expeditious justice that was the most important thing.

MR. JUSTICE McCARDIE.

"COULD BOX MAN OF THIRTY."

Plaintiff, in an accident case before Mr. Justice McCardie in the High Court recently, said that before the accident at the age of fifty-nine, he felt quite young.

Mr. Justice McCardie: I should think so. That happens to be my age, and I think I could still box a man of thirty.

SALE OF IMPORTANT FREEHOLD PROPERTY.

As announced in THE SOLICITORS' JOURNAL of the 1st June, the following important freehold properties, viz.: (*a*) Riverside premises near Waterloo Bridge, known as "Bridge Mills," with a frontage to the River Thames of about 63 feet; (*b*) No. 2, Lower Thames-street, close to Billingsgate and the Green and Dried Fruit Markets; and (*c*) A substantial warehouse, known as 204, 205 and 206, St. George-street, close to the London and St. Katherine Docks, will be offered for sale by Messrs. Richard Ellis & Son at the London Auction Mart, 155, Queen Victoria-street, E.C.4, on Tuesday next, the 2nd July, at 2.30 o'clock. Particulars and conditions of sale may be obtained from the auctioneers at their offices, 45, Fenchurch-street, E.C.3.

Court Papers.

Supreme Court of Judicature.

DATE	ROTA OF REGISTRARS IN ATTENDANCE ON EMERGENCY ROTA.	APPEAL COURT No. 1.	MR. JUSTICE EVE.	MR. JUSTICE ROMER.
M'd'y, July 1	Mr. Blaker	Mr. Andrews	Mr. Andrews	Mr. More
Tuesday .. 2	More	Jolly	*More	*Hicks Beach
Wednesday 3	Ritchie	Hicks Beach	Hicks Beach	*Andrews
Thursday.. 4	Andrews	Blaker	*Andrews	*More
Friday .. 5	Jolly	More	More	*Hicks Beach
Saturday .. 6	Hicks Beach	Ritchie	Hicks Beach	Andrews
DATE	MR. JUSTICE MAUGHAM.	MR. JUSTICE ASTBURY.	MR. JUSTICE CLAUSON	MR. JUSTICE LUXMOORE.
M'd'y, July 1	Mr. Hicks Beach	Mr.*Blaker	Mr. Ritchie	Mr. Jolly
Tuesday .. 2	Andrews	Jolly	Blaker	*Ritchie
Wednesday 3	More	*Ritchie	Jolly	*Blaker
Thursday.. 4	Hicks Beach	Blaker	Ritchie	*Jolly
Friday .. 5	Andrews	*Jolly	Blaker	Ritchie
Saturday .. 6	More	Ritchie	Jolly	Blaker

*The Registrar will be in Chambers on these days, and also on the days when the Courts are not sitting.

VALUATIONS FOR INSURANCE. It is very essential that all Policy Holders should have a detailed valuation of their effects. Property is generally very inadequately insured, and in case of loss insurers suffer accordingly. **DEBENHAM STORR & SONS (LIMITED)**, 26, King Street, Covenant Garden, W.C.2, the well-known chattel valuers and auctioneers (established over 100 years), have a staff of expert valuers, and will be glad to advise those desiring valuations for any purpose. Jewels, plate, furs, furniture, works of art, bric-a-brac a speciality.

Stock Exchange Prices of certain Trustee Securities.

Bank Rate (7th February, 1929) 5½%. Next London Stock Exchange Settlement Thursday, 11th July, 1929.

	MIDDLE PRICE 26th June	INTEREST YIELD.	YIELD WITH REDEMPTION.
English Government Securities.		£ s. d.	£ s. d.
Consols 4% 1957 or after	83¼	4 16 1	—
Consols 2½%	54	4 12 7	—
War Loan 5% 1929-47	100⅝	4 19 4	—
War Loan 4½% 1925-45	94½	4 15 3	5 0 0
War Loan 4% (Tax free) 1922-42	100¼	3 19 10	4 0 0
Funding 4% Loan 1960-1990	86	4 13 0	4 13 6
Victory 4% Bonds (available for Estate Duty at par) Average life 35 years	91½	4 7 5	4 10 0
Conversion 4½% Loan 1940-44	94½	4 15 3	5 0 0
Conversion 3½% Loan 1961	75¾	4 12 5	—
Local Loans 3% Stock 1912 or after	62½	4 16 0	—
Bank Stock	248	4 16 9	—
India 4½% 1950-55	86½	5 4 0	5 9 0
India 3½%	65½	5 6 10	—
India 3%	55½	5 8 1	—
Sudan 4½% 1939-73	94	4 15 9	4 16 6
Sudan 4% 1974	85	4 14 0	4 16 0
Transvaal Government 3% 1923-53 (Guaranteed by British Government, Estimated life 15 years)	82	3 13 2	4 4 0
Colonial Securities.			
Canada 3% 1938	86	3 9 9	4 19 0
Cape of Good Hope 4% 1916-36	93	4 6 0	5 4 0
Cape of Good Hope 3½% 1929-49	80	4 7 6	5 2 0
Commonwealth of Australia 5% 1945-75	96	5 4 2	5 4 6
Gold Coast 4½% 1956	95	4 14 9	4 14 0
Jamaica 4½% 1941-71	94	4 15 6	4 16 6
Natal 4% 1937	92	4 7 0	5 5 0
New South Wales 4½% 1935-45	90	5 0 0	5 5 0
New South Wales 5% 1945-65	97	5 3 0	5 3 6
New Zealand 4½% 1945	96	4 13 9	4 17 6
New Zealand 5% 1946	102	4 18 0	4 12 0
Queensland 5% 1940-60	97	5 3 0	5 4 0
South Africa 5% 1945-75	101	4 19 0	4 17 0
South Australia 5% 1945-75	97	5 3 1	5 1 0
Tasmania 5% 1945-75	99	5 1 0	5 1 0
Victoria 5% 1945-75	97	5 3 1	5 1 0
West Australia 5% 1945-75	99	5 1 0	5 1 0
Corporation Stocks.			
Birmingham 3% on or after 1947 or at option of Corporation	63	4 15 3	—
Birmingham 5% 1946-56	103	4 17 1	4 16 0
Cardiff 5% 1945-65	101	4 19 0	4 19 0
Croydon 3% 1940-60	70	4 5 6	4 18 6
Hull 3½% 1925-55	78	4 9 9	5 0 0
Liverpool 3½% Redeemable by agreement with holders or by purchase	73	4 15 11	—
Ldn. Cty. 2½% Con. Stk. after 1920 at option of Corpn.	53	4 14 0	—
Ldn. Cty. 3% Con. Stk. after 1920 at option of Corpn.	63	4 15 0	—
Manchester 3% on or after 1941	64	4 13 9	—
Metropolitan Water Board 3% 'A' 1963-2003	63	4 15 0	—
Metropolitan Water Board 3% 'B' 1934-2003	64	4 13 6	—
Middlesex C. C. 3½% 1927-47	83	4 4 6	4 18 6
Newcastle 3½% Irredeemable	72	4 17 3	—
Nottingham 3% Irredeemable	63	4 15 3	—
Stockton 5% 1946-66	102	4 18 0	4 18 0
Wolverhampton 5% 1946-56	102	4 18 0	4 17 0
English Railway Prior Charges.			
Gt. Western Rly. 4% Debenture	80	5 0 0	—
Gt. Western Rly. 5% Rent Charge	98	5 2 0	—
Gt. Western Rly. 5% Preference	91½	5 9 3	—
L. & N. E. Rly. 4% Debenture	74½	5 7 5	—
L. & N. E. Rly. 4% 1st Guaranteed	71	5 12 8	—
L. & N. E. Rly. 4% 1st Preference	65	6 3 1	—
L. Mid. & Scot. Rly. 4% Debenture	77¼	5 3 7	—
L. Mid. & Scot. Rly. 4% Guaranteed	76	5 5 3	—
L. Mid. & Scot. Rly. 4% Preference	67½	5 18 6	—
Southern Railway 4% Debenture	78	5 2 7	—
Southern Railway 5% Guaranteed	97	5 3 0	—
Southern Railway 5% Preference	87	5 14 11	—

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THIS IMPORTANT RESIDENCE,

occupying an unrivalled position within a few yards of St. James's Park, overlooking ornamental gardens, and entirely immune from noise.
The house is of dignified proportions, and contains a fine suite of entertaining rooms, decorated in historic styles.
The accommodation is as follows:—Reception hall, dining room, library, sitting room, drawing room, boudoir, ante room, secretary's room, five principal bed and dressing rooms, nine secondary and servants' bed rooms, two bath rooms and the usual domestic offices.
CENTRAL HEATING.
Unexpired term of lease approximately 18 years.
RENT £1,200 PER ANNUM.
Also
12, CARLTON MEWS.
Spacious garage premises with living rooms over.
Unexpired term of lease approximately 18 years.
RENT £160 PER ANNUM.
VACANT POSSESSION ON COMPLETION OF THE PURCHASE.
To be offered for SALE by AUCTION in conjunction with Messrs.

WM. GROGAN & BOYD,

in the Hanover-square Estate Room on Thursday, 11th July, 1929, at 2.30 p.m. (unless previously sold privately).
Solicitors: Messrs. Nicholson, Freeland & Shepherd, 46, Queen Anne's-gate, S.W.1.
Auctioneers: Messrs. WM. GROGAN and BOYD, 10, Hamilton-place, W.1; Messrs. KNIGHT, FRANK and RUTLEY, 20, Hanover-square, W.1.
NOTE.—THE CONTENTS OF THE RESIDENCE WILL BE OFFERED BY AUCTION ON THE PREMISES ON 15th JULY AND FOLLOWING DAY.

BY DIRECTION of T. LOEL E. B. GUINNESS, Esq.

12, CARLTON HOUSE TERRACE, S.W.

THE CROWN LEASE OF A DISTINGUISHED MEDIUM-SIZED HOUSE HAVING AN UNINTERRUPTED SOUTH ASPECT OVER ST. JAMES'S PARK.
The accommodation comprises hall, four-five reception rooms, six-seven principal bed rooms, 15 secondary and staff bed rooms, six bath rooms, excellent domestic offices.
BEAUTIFUL INTERIOR DECORATIONS.
PASSENGER LIFT. CENTRAL HEATING.
Unexpired Term of Lease about 55 Years.
RENT £1,300 PER ANNUM.
VACANT POSSESSION ON COMPLETION OF PURCHASE.
To be offered for SALE by AUCTION in the Hanover-square Estate Room on Thursday, 5th September, 1929, at 2.30 p.m. (unless previously sold privately).
Solicitors: Messrs. Ellis Peirs & Co., 17, Albemarle-street, W.1.
Auctioneers: Messrs. Knight, Frank & Rutley, 20, Hanover-square, W.1.

ELDRIDGE & MORRIS

(Established 1905)

of 6, Albemarle Street, Piccadilly, W.1.

LEND

£50 upwards to **£5,000**

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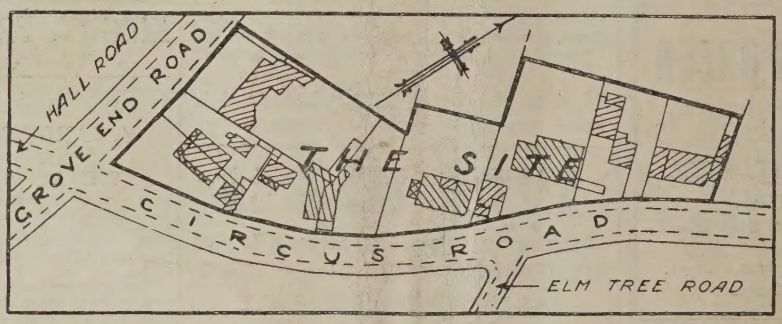
THE EYRE ESTATE, ST. JOHN'S WOOD, N.W.

A BUILDING LEASE

OF

THIS IMPORTANT SITE

ABOUT 112,000 SQUARE FEET.



WILL BE OFFERED AT PUBLIC AUCTION ON MONDAY, 29th JULY, 1929, by

ALFRED SAVILL & SONS, 51a, Lincoln's Inn Fields, W.C.2.

MESSRS.

DANIEL SMITH, OAKLEY & GARRARD,

CHARTERED SURVEYORS, LAND AGENTS AND AUCTIONEERS,

4-5, CHARLES STREET, ST. JAMES'S SQUARE, S.W.1, and at CATHEDRAL CHAMBERS, ROCHESTER.

Telephones: Gerrard 5240-1; Chatham 533. Telegrams: "Yelkao Picci, London."

CHELSFIELD, KENT.

2¼ miles from Orpington. London 15 miles by road. Good train service from London (S.R.) 35 minutes.

FREEHOLD, RESIDENTIAL, AND AGRICULTURAL PROPERTY, known as

CHELSFIELD HOUSE,

An enlarged QUEEN ANNE RESIDENCE, with accommodation as follows: 4 reception rooms, 17 bed and dressing rooms, 4 bathrooms, usual domestic offices.

Electric light, gas, water, central heating.

Garage for 5 cars. Lodge.

Good gardens, 4 tennis courts, large kitchen garden, 9 cottages. Total area about

147 ACRES.

Messrs. DANIEL SMITH, OAKLEY & GARRARD will offer the above for SALE by AUCTION, at the LONDON AUCTION MART, 155, QUEEN VICTORIA-STREET, E.C.4, on WEDNESDAY, JULY 3rd, 1929, at 2.30 p.m. (unless previously disposed of privately).

Particulars, when ready, from:

Solicitors: Messrs. THOROLD, BRODIE and BONHAM CARTER, 7, Cowley-street, S.W.1.

Agents: Messrs. EILOART, SONS and INMAN, 40, Chancery-lane, W.C.2.

Auctioneers, as above, 4-5, Charles-street, St. James's Square, S.W.1.

WROTHAM HEATH, KENT.

Midway between Sevenoaks and Maidstone.

THE FREEHOLD BUILDING AND AGRICULTURAL PROPERTY known as the

NEPICAR ESTATE,

comprising NEPICAR LODGE FARM, WOODLAND, ACCOMMODATION and BUILDING LAND, COTTAGES, &c. Area about

137 ACRES.

To be SOLD by AUCTION at the STAR HOTEL, MAIDSTONE, on THURSDAY, 11th JULY, 1929, at 2.30 p.m. (unless previously sold privately).

Solicitors: Messrs. BANNISTER & FACHE, 12, John-street, Bedford-row, W.C.1.

AUCTIONEERS, as above, 4-5, Charles-street, St. James's-square, S.W.1.

LYME REGIS, DORSET,

Situated over 300 feet above the town, with magnificent views of the Cobb and along the coast to Golden Cap and Portland.

THE FREEHOLD RESIDENTIAL PROPERTY known as

HIGH CLIFF,

Accommodation: Four reception-rooms, billiard-room, nine principal, four secondary bedrooms, bath-room, &c. Gardens. Lodge. Garage. Stabling.

Area about

8 ACRES.

Messrs. DANIEL SMITH, OAKLEY & GARRARD will offer the above for SALE by AUCTION, at The Three Cups Hotel, Lyme Regis, on WEDNESDAY, 17th JULY, 1929 (if not previously sold privately).

Solicitors: Messrs. MACKRELL, MATON, GODLEE and QUINCEY, 21, Cannon-street, E.C.4.

Auctioneers, as above, 4-5, Charles-street, St. James's-square, S.W.1.

FOR SALE BY PRIVATE TREATY.

THE CROWN LEASE OF

No. 3, CARLTON HOUSE TERRACE,

S.W.1.

Accommodation: Dining-room, Library, Study, Two Large Drawing-rooms, Boudoir, 8 Bedrooms, 3 Bathrooms; good Domestic Offices.

LEASE: 32 Years unexpired.

For particulars apply Messrs. D. SMITH, OAKLEY and GARRARD, as above, 4-5 Charles-street, St. James's-square, S.W.1.

No. 62, PORTLAND PLACE, W.1.

TO BE LET

(pending rebuilding),

FOR TWO YEARS AT A MODERATE RENT.

For particulars apply Messrs. DANIEL SMITH, OAKLEY and GARRARD, as above, 4-5, Charles-street, St. James's-square, S.W.1.

By Order of Trustees and Executors.

DONALDSON & SONS, F.A.I.,

will SELL at the LONDON AUCTION MART, E.C.4, on WEDNESDAY, 17th July, 1929, at 2.30 p.m.:—

WOOD-GREEN.—The magnificent FREEHOLD INSTITUTION, known as The Home and Colonial Training College, having 680ft. frontage to Lordship-lane, occupying an area of 10 acres adaptable for hospital, convalescent home, institution, or ripe for development.—Plan, photo, and particulars of Solicitors, Messrs. Bridges, Sawtell & Co., 23, Red Lion-square, W.C.1.

DALSTON.—FREEHOLD with vacant possession. Non-basement, semi-detached, two floors. Five rooms, bath, kitchen. Side entrance. 63, MALVERN-ROAD. Redecorated.—Solicitors, Messrs. Gush, Phillips, Walters and Williams, 5, Throgmorton-avenue, E.C.2.

DALSTON.—23, ALBION-ROAD.—Detached, non-basement. Let at £44 16s. Term 15 years. Ground rent 10s. only. 45 and 46, REGENT'S-ROW, producing £123 10s. Term 16 years. Ground rent £5 10s. the two.

DALSTON.—FREEHOLD P.p.p. GROUND RENT, arising out of 45 and 46, Regent's-row, with reversion in 17 years to rack rents.—Solicitors, Messrs. Geo. and Wm. Webb, 3, Devonshire-square, E.C.2.

STRATFORD.—FREEHOLD CORNER SHOP and WORKSHOP, area 1,630 sq. ft., 219, HIGH-STREET, let at £30, and 2 and 4, UNION-STREET, let at £59 3s.

LEYTON.—FREEHOLD, 52, WESLEY-ROAD. Let at £28.—Solicitor, J. Fredk. Orchard, Esq., Market-place, Sidmouth.

Auction Offices, 562, Kingsland-road, Dalston Junction. 'Phone, Clissold 2330 (three lines).

To Manufacturers and Others requiring Factory accommodation.

VACANT POSSESSION.

COMMERCIAL-STREET (close to Shoreditch High-street).—Valuable FREEHOLD CORNER PROPERTY ST. STEPHEN'S SCHOOLS, corner of Wheler-street and Quaker-street. Frontages 75ft. and 31ft. Four open floors, with area of about 6,574ft. Two brick-enclosed stone stairways, and an eight-room caretaker's house.

Messrs. REYNOLDS & EASON

Will SELL the above by AUCTION, at the MART, 155, QUEEN VICTORIA-STREET, E.C., on TUESDAY NEXT, 2nd July, at 2.30 o'clock.

Particulars of Messrs. Clapham, Fraser & Williams, Solicitors, 15, Devonshire-square, E.C., and of the Auctioneers, 192, Bishopsgate, E.C.2.